

# ENVIRONMENTAL CRIME REPORT

2022



The National Working Group on Monitoring Environmental Crime, Finland

01 August, 2022

# Summary

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# 1 Introduction

In this Environmental Crime Report, environmental incidents reported to the police, Customs and Border Guard are presented per offence type covering the years 2017 – 2021. Environmental crime statistics have been compiled according to the offence type based on which the criminal act was investigated. The offence type may have changed when the case was referred to prosecution for consideration of charges and again in the court procedure. The Report also gives some examples of various environmental offences committed and includes statistics compiled by the criminal investigation authorities and courts.

Compared to the previous years, the total numbers of environmental offences referred to in the Criminal Code, Chapter 48 and natural resource offences referred to in Chapter 48a were both higher in 2021. Offences endangering health and safety listed in the Criminal Code, Chapter 44 also include criminal acts that can have a significant impact on the environment; the number of such offences also grew in 2021 whereas the number of violations classified into environmental offences dropped in the same year. Overall, there was a significant drop in the number of offences classified as environmental crimes in 2021 when compared to the previous years. Roughly one in every three investigated environmental offences under Chapters 48, 48a and 44 is referred to the prosecution authority.

Environmental authorities and criminal investigation authorities have implemented the Environmental Crime Prevention Strategy and the Action Plan in inter-agency cooperation. The first update of the Strategy was made in the beginning of 2021, and it will be valid until 2026. The fourth Action Plan<sup>1</sup> was published at the same time. An update of the Strategy for 2023 – 2024 will be prepared in autumn 2022. The Implementation Group chaired by the Ministry of the Environment monitors the implementation of the Strategy. Regional cooperation groups formed in 2016 by the authorities responsible for combating environmental crime cover the whole of the country. Their activities are well established. Thematic cooperation groups have also been established, and they work hand in hand with the regional cooperation groups. The groups have enhanced inter-agency cooperation and the exchange of information, held joint training events as well as planned and carried out 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

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<sup>1</sup> [Environmental Crime Prevention Strategy 2021–2026 and Action Plan 2021–2022 - Valtio \(valtioneuvosto.fi\)](#)

collaboration in crime detection has produced good results in solving environmental offences. As the authorities have got better organised during the time when the previous Strategy was implemented, the focus in preventing environmental crime will be shifted to making operations at a grass-root level more efficient. The aim is to prevent environmental crime by raising public awareness of obligations under environmental and nature protection legislation and by organising media campaigns on environmental crime themes.

The National Monitoring Group on Environmental Crime produces situational awareness of environmental crime in Finland. The Monitoring 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. Development, monitoring and annual reporting of environmental crime prevention have also been regarded internationally as a unique example of best practices and a model report. Over the years, the Monitoring Group has made numerous recommendations for enhancement of environmental crime prevention, development of inter-agency collaboration and amendments to legislation. These recommendations have also been put to practice. For example, development of a national strategy to combat environmental crime was one of the Monitoring Group's recommendations, which has since been implemented.

The National Monitoring Group on Environmental Crime is chaired by Chief Superintendent Tuomas Pöyhönen 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; Legal Adviser Leena Mäkipää 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; Senior Border Guard Inspector 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 (SYKE); Jonna Kartano 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 Collaboration between the supervisory authorities

The Centres for Economic Development, Transport and the Environment (ELY Centres) engage in regular collaboration with municipal environmental authorities in supervisory matters, as their duties are similar and even parallel to some 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. A need for inter-agency collaboration between the Ministry of the Environment, Finnish Environment Institute (SYKE), ELY Centres and Customs has become evident in the context of the investigations conducted. Such cooperation will be consolidated and developed in the future. Expert roles of the Ministry of the Environment, SYKE and ELY Centres intertwine at many points of criminal investigation. Customs contribute to criminal investigations their expertise, cooperation with prosecution and international collaboration. Regular exchange of information and development of cooperation in training are especially needed 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 SYKE is particularly crucial in supervision and control of international shipments of waste in order to detect and prevent illegal international shipments. In accordance with the National Inspection Plan, other supervisory authorities, namely ELY Centres, environmental authorities in municipalities and police, will take more actively part in controlling international waste shipments. Cooperation between Customs and SYKE also plays a major role in control of the transport of animals and plants subject to a licence, in enabling criminal investigation and in prevention of unlicensed and illegal transfers.

Inter-agency cooperation is a key element in detecting discharges of oil. The Border Guard is the lead authority for discharges from ships in sea areas. The agency is responsible for rescue operations in regard to discharges of oil and chemicals in Finland's territorial waters and exclusive economic zone, and it also coordinates preparedness for such incidents. The Border Guard also decides on guiding ships to safe harbour and draws up respective plans in cooperation with Traficom, Finnish Environment Institute (SYKE) and the Finnish Transport Infrastructure Agency. Inter-agency collaboration is essential in both detection and prevention duties. In oil spill responses and detection of discharges, the main cooperating authorities are the Navy, rescue services and the Finnish Transport and Communications Agency (Traficom). In respect to detection of oil discharges, the Border Guard works in cooperation with the police and the Finnish Environment Institute (SYKE) both in investigating prerequisites for imposing administrative oil discharge fees and in criminal investigation into such discharges.



### 3 Training in environmental crime matters in the Police University College

*Author: Kari Koppanen, Detective Sergeant, Police University College*

For the perspective of training, the year 2021 was very challenging. The global COVID-19 pandemic reflected in the selection of courses offered by the Police University College as cancellation of supplementary training courses, in particular. There was no Course on Investigation into Environmental Crime Cases arranged at the Police University College in 2021. This course is targeted to prosecutors, heads of criminal investigation and environmental crime investigators. A seminar on environmental crime for regional groups was not arranged in 2021, either. The seminar was initially planned for 26 and 27 September, 2020.

### 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 to be expensive. From the perspective of crime prevention, it is not only important to prevent criminals from profiting from environmental crimes, but also to forfeit proceeds from their crimes to the State, as it reduces the lucrativeness of neglecting environmental obligations.

In environmental offences, authorities assess criminal proceeds through inter-agency cooperation. However, it may often be difficult, and the correct amount is often one of the key points in court. Only extra proceeds gained through the offence may be ordered forfeit, because forfeiting criminal proceeds is not a punishment. 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 exact amount. The court will have to consider which expenses will be considered in the assessment of proceeds, so that only the actual proceeds of crime will be forfeit. Proceeds of crime 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 cases requiring police-to-police or legal assistance in environmental matters and conducted criminal investigation into an illegal international shipment of waste in 2021. The National Bureau of Investigation and the 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 other communications on environmental crime to law enforcement authorities of their Member States.

## 6 Environmental crime related threats

### 6.1 Situation in Finland

A slightly higher number of environmental crime cases was filed in 2021 than in previous four years. Environmental crime related threats affecting Finland change as the world around us changes. Especially in Central Europe, international transports of waste and dumping are serious and lucrative forms of crime in which organised crime networks are also active in seeking fast profit. 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 the national laws differ to some extent 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.

For years, the National Working Group on Monitoring Environmental Crime has highlighted the 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 dayfine or, in rare cases, a suspended prison sentence.

A survey of law enforcement agencies and ministries was carried out in the spring of 2022 by the Editorial Team for the Big Picture of the Grey Economy and Economic Crime with the aim of gathering their views and observations on changes in the operational environment in the six-month and two-year timeframes. According to the survey, observations concerned increased amounts of household waste caused by the Covid-19 pandemic, abuses in treatment and transport of household and electronic waste, short-life businesses and unlawful landfills, poor equipment and expertise, unlawful shipments of construction waste and scrap cars, exploitation of money laundering in waste crime and abuse of subsidies granted by the European Union.<sup>2</sup>

## 6.2 Situation abroad

Environmental crime is considered a very significant form of crime around the world. It is estimated that environmental crime produces third-high financial profit after arms trafficking and drug crime. According to INTERPOL, proceeds gained from environmental crime amount to 110 - 281 million dollars per year.<sup>3</sup> Environmental crime cases often have connections to abroad, so international cooperation between law enforcement authorities is globally considered very important.

International threats posed by environmental crime may seem very distant to people living in Finland. Our country is a welfare state, and many of the forms of environmental crime are non-existent here. For example, we have 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 described as follows: 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. So far, Finland is not known to have a problem with plastic waste crime; however, 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

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<sup>2</sup> [The Big Picture of the Grey Economy and Economic Crime \(vero.fi\)](#)

<sup>3</sup> [INTERPOL makes public appeal to help track environmental fugitives](#)

amount of waste collected in Europe and North America was shipped to China.<sup>4</sup> As China and many other countries in Asia no longer accept plastic waste, it is necessary to find alternative recovery facilities as well as improve recycling and reduce the generation of plastic waste. Requirements for shipments of plastic waste were tightened globally by both the Basel Convention and the EU Waste Shipment Regulation as of 01 January, 2021.

Globally, food related crime is increasing. Food crime is considered as a dark figure of crime which is not identified in the chain of control by food safety authorities. These offences are nearly always motivated by financial profit, for example when a food product is falsified by adding cheaper ingredients and sold as a genuine product. Food crime may have serious public health consequences. Several cases of food crime have been identified in Finland, too. The food control authority in Finland is the Finnish Food Authority.

### **Situation in the neighbour countries**

Situational awareness of Finland's neighbour countries is based on direct contacts, publicly available crime statistics and open sources.

#### *Russia*

Of Finland's neighbour countries, the least information has been received on the environmental crime situation in Russia. The most common environmental and natural resource offences investigated in Russia have been timber thefts and poaching of endangered large predators. No statistics on environmental crime in Russia are available for 2021.

#### *Sweden*

Roughly 4,000 - 6,000 environmental offences are filed in Sweden every year. The total number of environmental crimes filed in 2021 was 4,974 - that is 460 cases less than in the previous year. Statistics on offences violating the Swedish Criminal Code are published on the website of the Swedish National Council for Crime Prevention.<sup>5</sup>

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<sup>4</sup> [The Chinese import ban and its impact on global plastic waste trade | Science Advances \(sciencemag.org\)](https://www.sciencemag.org)

<sup>5</sup> [Brå - Brottsförebyggande rådet \(bra.se\)](https://www.bra.se)

Criminal investigation was conducted in 3,170 environmental crime cases in 2021. Roughly 6 % of all filed cases were referred to prosecution.<sup>6</sup>

According to the statistics, roughly 260 criminal cases against the protected species were filed in Sweden in 2021; in Finland, these offences are considered as nature conservation offences. Sweden's statistical figures on nature conservation crime can be considered high. Sweden has invested in investigating nature conservation crime in the police and therefore, they have a number of international criminal investigations in this field. Offences against protected animals involve often large amounts of illegal money.

### *Norway*

No statistics on environmental offences committed in 2021 had been published at the time of writing this Report. However, a total of 5,794 environmental offences/violations<sup>7</sup> and 1,358 hunting and fishing offences or violations were filed in Norway in 2020, of which a total of 3,070 environmental offences/violations as well as 708 hunting and fishing offences were solved. Statistics of offences against the Norwegian Criminal Code are available on the website of Statistics Norway.<sup>8</sup>

In Norway, the 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](http://www.okokrim.no)). The agency also publishes Miljøkrim e-magazine that can be downloaded from the Økokrim's website.<sup>9</sup> Additionally, environmental crime investigation is also conducted in local police departments by investigators, who have received specific training in environmental crime investigation.

### *Estonia*

As regards preventing and investigating environmental crime, there have been significant developments since the 2011 administrative and legislative reform. The Estonian environmental

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<sup>6</sup> [Processed offences \(bra.se\)](#)

<sup>7</sup> Offences against nature and the environment, poisoning as a danger to public health and serious environmental offences, other offences against nature and the environment.

<sup>8</sup> [Offences investigated - SSB](#)

<sup>9</sup> [Økokrim \(okokrim.no\)](http://okokrim.no)

inspection agency<sup>10</sup> has served as the central authority for environmental violations since 01 September 2011. The Inspectorate was then invested with also full criminal investigative powers, and subsequently, it recruited former police detectives, among others, as criminal investigators. The environmental inspection agency and the Environmental Board merged into one agency in 2021.

In general, very few actual environmental offences are filed in Estonia. According to the information received, a total of 33 environmental crime cases were filed in Estonia in 2021, of which 5 were related to forests, 23 to fishing or hunting, 2 to environmental permits and 3 to waste. 16 cases were referred to the prosecutor. In 2021, Finnish and Estonian authorities were successfully cooperating in conducting criminal investigation into an environmental offence.

## 7 International aspects

### 7.1 International collaboration

Several international organisations and bodies focus in prevention of environmental and natural resources offences of which the most important of them, from a law enforcement perspective, are INTERPOL, Europol and the World Customs Organisation (WCO). Other important tools in collaborating and exchanging information include the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) with the CITES Secretariat charged with the implementation of the Convention. Environmental 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 drafted the Action Plan on Environmental Compliance Assurance together with the Member States. One of the measures concerned environmental crime prevention, and in 2020 the work resulted in publishing a continuously updated guidance document of good practices to combat environmental crimes and related infringements. Good practices have been collected from the fight against waste and wildlife crime in particular. In December 2021, an even more comprehensive guidance document was completed to support the work of environmental authorities, police, customs, prosecutors and

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<sup>10</sup> Keskkonnainspeksioon, [Avaleht](#) | [Keskkonnaamet](#)

judges. ([publication](#):<sup>11</sup> Combating environmental crimes and related infringements. Environmental compliance assurance: guidance document) together with the summary guide [publication](#)<sup>12</sup>.

On 15 December 2021, the Commission adopted a proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC (COM(2021) 851 final). The Directive is complemented by the Communication from the Commission to the European Parliament and the Council on stepping up the fight against environmental crime (COM (2021) 814 final) of the same date. The EU Council started discussions on the proposal in January 2022. The document includes provisions on criminal offences, penalties for natural and legal persons, environmental crime prevention and training, among others. It also includes obligations relating to coordination and cooperation between the competent authorities of the Member States and national strategies against environmental crime.

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 representative in the Pollution crime working group, in particular. More information on INTERPOL's initiatives in preventing environmental crime is available on the INTERPOL's home page.<sup>13</sup>

In 2011, Europol set up a cooperation body for developing best practises for environmental crime prevention, namely EnviCrimeNet.<sup>14</sup> Finland has had a police member attending EnviCrimeNet meetings since the establishment of EnviCrimeNet.

In the latter half of 2016, Slovakia raised environmental crime prevention as one of the focus areas of its first Presidency of the Council of the European Union. Thanks to the initiative shown by Slovakia, the Council of the EU also made environmental crime one of the priorities of EMPACT (European multi-disciplinary platform against criminal threats). In the years 2022 - 2025, environmental crime prevention will continue to be one of the priorities of the EMPACT.

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<sup>11</sup> [Combating environmental crimes and related infringements - Publications Office of the EU \(europa.eu\)](#)

<sup>12</sup> [Combating environmental crimes and related infringements - Publications Office of the EU \(europa.eu\)](#)

<sup>13</sup> [Environmental crime \(interpol.int\)](#)

<sup>14</sup> [Home - EnviCrimeNet](#)

More information on the EMPACT cooperation platform is available on the website in the footnote.<sup>15</sup>

## 7.2 Eurojust and environmental offences

Eurojust is to assist prosecutors in environmental crime cases with international dimensions and to support national law enforcement and prosecution authorities in handling cases of serious crossborder crime. Eurojust was established in 2002 to enhance cooperation between national authorities in prevention of serious crossborder crime with an impact on the European Union. Eurojust hosts 26 national representatives, one from each Member State. Denmark has also seconded a representative to Eurojust. There are also liaison officers seconded by third countries working in Eurojust. The representatives working in The Hague are experienced prosecutors, judges or police officers of similar powers.<sup>16</sup>

Eurojust is tasked with coordination of national authorities through various stages of criminal investigation and prosecution. Eurojust also resolves practical problems conducive to differences in judicial systems of the Member States.<sup>17</sup>

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

Within its remit, Eurojust has assisted in conducting criminal investigation into dozens of environmental offences, although the number is low in comparison to other criminal cases, largely due to the same factors as the low numbers of recorded environmental offences at national levels. If an offence is not identified or investigated by a Member State, neither will it be considered 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 illegal trade in protected species and illegal shipments of waste. Eurojust has assisted in the cases by providing insight into the legislation of different Member States, assisting with the execution of

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<sup>15</sup> [EU Policy Cycle - EMPACT | Organised Crime | Europol \(europa.eu\)](#)

<sup>16</sup> [History | Eurojust | European Union Agency for Criminal Justice Cooperation \(europa.eu\)](#)

<sup>17</sup> [What we do | Eurojust | European Union Agency for Criminal Justice Cooperation \(europa.eu\)](#)



requests for legal assistance, coordinating prosecution and arranging witness hearings between courts of different Member States, for example.<sup>18</sup> Kansainvälisen viranomaisyhteistyön tehostuminen paljastaa rikollisuutta

### 7.3 Detecting crimes through enhanced international collaboration

Waste crime is one of the most serious threats to the environment in Finland. A review of illegal waste trade published by the National Bureau of Investigation, Customs and the Finnish Environment Institute (SYKE) received a lot of media attention in May, 2021. Data used in the review were from the year 2020.<sup>19</sup> The review focuses in introducing various forms of international shipments of waste, such as trade in non-hazardous waste, and respective legal provisions. The review points out how permitted export of waste from Finland has increased whereas permitted import has decreased compared to the previous year and shows through statistics how the number of inquiries related to international shipments of waste doubled in 2020 compared to the previous year.

The review was introduced to the public with a help of a press release on criminal investigation to a major case involving international illegal waste shipments and on the joint investigation team (JIT) set up by Finnish and Estonian authorities for the purposes of the investigation. According to the press release, the National Bureau of Investigation had launched a large-scale criminal investigation into three partly overlapping cases of aggravated impairment of the environment in the beginning of 2020. Suspects in the three cases are partly the same. Illegal trade in hazardous waste is a rising trend.<sup>20</sup>

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<sup>18</sup> Report by district prosecutor Heidi Nummela, who was a national expert in an environmental crime working group of Eurojust between 01 March and 31 October, 2018.

<sup>19</sup> [Topical review by the National Bureau of Investigation, Finnish Environmental Institute and Customs](#)

<sup>20</sup> [More and more hazardous waste is unlawfully exported from Finland - Police](#)

## 8 International instruments and Finnish legislation on environmental crime

### 8.1 International instruments on environmental crime

Finland has ratified a number of international treaties on energy and the environment. These instruments cover areas such as the protection of bodies of water and the atmosphere, exploitation and protection of natural resources, waste, flora and fauna, energy and space. Examples of such multilateral instruments 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).

180 countries have ratified the CITES Convention covering roughly 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 ("trade" referring here to import or export across national borders). Common CITES legislation has been in place in the European Union since 1984, and it 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 by the Council and Commission also provide in the trade between and within Member States. Import regulations are stricter than the Convention and they cover more species than the Species Annex to the Convention.

In 2018, the Ministry of the Environment published a guide on the impact of international environmental treaties on Finland (in Finnish only). The guide discusses the essential environmental instruments signed under the UN and the environmental cooperation carried out in the framework of these instruments.<sup>21</sup>

The Council of Europe explores possibilities to start preparations of a new convention on environmental crime.

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<sup>21</sup> [YO\\_2018\\_Kansainvaliset\\_ymparistosopimukset.pdf \(valtioneuvosto.fi\)](#)

## 8.2 EU legislation on environmental crime

A significant part of Finnish environmental legislation comes from the European Union. Since the majority of EU enactments are issued as directives, they need to be transposed into national legislations. Directives usually set minimum requirements only i.e. it is possible to lay down stricter levels of protection at national level.

On 19 November 2008, the European Parliament and the Council issued Directive 2008/99/EC on the protection of the environment through criminal law that is known as Environmental Crime Directive. The purpose of the Directive is to guarantee a high level of environmental protection in the Member States by providing minimum requirements on the punishments imposed for causing serious harm to the environment. The Directive was adopted in response to concerns about the increase in environmental crime and its impact, as they increasingly extend beyond national borders of the countries where offences are committed. 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.

In December 2021, the Council adopted a proposal for a new Environmental Crime Directive. This proposal aims to make investigation and prosecution of environmental crime more effective by updating the scope of the Directive and clarifying environmental crime related terminology. The new Directive also aims to ensure that authorities have effective, dissuasive and proportionate sanctions in their toolboxes to enhance criminal investigation and prosecution across national borders and to boost informed decision-making by improving the collection and dissemination of statistical information. The aim is also to improve the operational efficiency of criminal procedures at national levels and thereby, to enhance criminal investigation, prosecution and sanctioning.

In November 2021, the Commission adopted a proposal for a new Waste Shipment Regulation (proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) 2020/1056). The main objectives of the proposed amendment are to facilitate shipments of waste for re-use and recycling within the EU, to ensure that the EU does not pass on waste-related problems to third countries and to combat illegal shipments of waste. Illegal shipments of waste are to be prevented by more effective

control and stricter provisions on penalties. Cooperation in inspections and investigations would be enhanced at national and EU levels, for example by allowing the Commission to carry out inspections on shipments of waste. An EU-level Waste Shipment Control Group would also be set up to facilitate and enhance cooperation and coordination between the Member States in preventing and detecting illegal shipments.

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. Finland is currently making preparations for the ratification of the Convention.

### 8.3 National legislation on environmental crime

Environmental offences are covered by both the Criminal Code and several specific environmental laws. The most serious offences for which the punishment can be imprisonment are included in the Criminal Code, Chapter 48; the penal scale ranges from a fine to imprisonment for at most six years depending on the seriousness of the criminal act. Provisions on a corporate fine included in the Criminal Code, Chapter 9 are also applied to the offences under the Chapter 48. The fact that penal provisions are included in the Criminal Code only emphasises the reprehensibility of these 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 the Criminal Code, Chapter 48a are closely related to environmental offences. These are offences punishable by imprisonment and relate to hunting, fishing and forest management. With the exception of an aggravated hunting offence (Chapter 48a, section 1a), a corporate fine cannot be imposed in these cases. Provisions for more lenient violations are included in the Hunting Act, Fishing Act and Forest Act, among others.

Environmental offences and natural resources offences are also subject to forfeiture provisions. Illegal proceeds gained shall be ordered forfeit to the State. In practice, a corporate entity can be made to compensate waste processing costs saved through its illegal operations, for example. Subject to certain conditions, criminal proceeds, instruments of crime and object or property which has been produced, manufactured or brought about by way of an offence, or at which an offence has been directed, can be ordered forfeit to the State. In respect to a poached animal or an 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 environmental laws

By amending the Criminal Code, Chapter 48, section 6, the scope of the essential elements of a building protection offence was extended to cover activities in breach of the permit conditions or regulations on protection. In the same context, the Act on the Protection of the Architectural Heritage was also amended (1085/2020), inter alia by specifying section 23 on a building protection offence accordingly, and by enacting a new section 23a on the procedure in criminal matters. This new section requires ELY Centres to report suspicions of environmental crime to the police for criminal investigation. According to the section, ELY Centres also have to be reserved an opportunity to be heard when the suspected criminal act and the matter as a whole are processed. The amendments entered into force on 01 January, 2021.

The amendment to the Waste Act stipulated that whenever a public interest has been violated, Finnish Environment Institute (SYKE) is to appear as the injured party in any criminal case concerning international shipments of waste. At the same time, the criteria for penalty payments relating to international shipments of waste were updated.

Amendments to the Marine Environmental Protection Act, which entered into force on 01 July 2021, implemented, among other things, the revised EU Ship Waste Directive. Subsequently, waste management is improved in ports and the scope of the requirements for organising waste management and drawing up a waste management plan are extended. The scope of the Act on Oil Discharge Fee to cover inland waterways, and regulations transferring oil cargo were extended to cover ship-to-ship transfers of waste and other harmful and dangerous cargoes and fuels.

The scope of the prohibition and respective restrictions of discharge of oil was also extended to concern such non-mineral-based oils used on board that have characteristics equivalent to mineral-based oils covered by MARPOL Annex I. In addition to the prohibition of discharge of oil, violations of the prohibition of discharge of these substances are subject to an oil discharge fee under Chapter 3 of the Act or a criminal penalty under Chapter 13, section 3 of the Act, as is the case for violations of the prohibition of discharge of mineral oils. Thus, all oils harmful to the marine environment intended for use on board are regulated in a harmonised way. However, for foreign ships sailing in the exclusive economic zone, the prohibition of discharge of oil would only apply to those substances equivalent to mineral oil discharge of which from a ship is prohibited under MARPOL due to the provisions of the UNCLOS on coastal state jurisdiction in the exclusive economic zone.

## 9 Enforcement and compliance with the environmental legislation

### 9.1 Control of compliance

#### **9.1.1 Centres for Economic Development, Transport and the Environment (ELY Centres) and municipal environmental authorities**

Centres for Economic Development, Transport and the Environment (ELY Centres) and municipal environmental authorities are chiefly responsible for controlling compliance with environmental laws in Finland. In addition, the Finnish Environmental Institute (SYKE) and Finnish Safety and Chemicals Agency (TUKES) also have certain duties in the field.

Together with six Regional State Administrative Agencies, 15 ELY Centres act as regional administrative authorities. The ELY Centres contribute to regional development by implementing and developing tasks of the State administration. Under the Act on Centres for Economic Development, Transport and the Environment (897/2009), their duties relate to, among other things, protecting the environment, supervising land use and construction, protecting nature and landscape, monitoring of the state of the environment together with the Finnish Environment Institute (SYKE), supervising waste management, water resources and fisheries as well as affairs of rural areas. The ELY Centres supervise adherence to environmental and water permits issued by the Regional State Administrative Agency and ensure that public interest is considered in environmental and water issues. The ELY Centres produce and disseminate information on the environment, prevent and combat environmental damage and nuisance and take care of carrying out works relating to the environment, water supplies and water works. The ELY Centres also act as contact authorities in environmental impact assessments (EIA) and make decisions to clean up contaminated land, for example.

In municipalities, the environmental authority (frequently the environmental board) appointed by the municipal council is responsible for granting permits and enforcement duties provided in the environmental legislation. According to the Local Government Act, a local authority committee or a joint committee of several municipalities or a decision-making body of a joint municipal authority may also act as the environmental authority. Their duties are provided for in the Act on the administration of environmental protection in municipalities (64/1986). The municipal environmental authority is, among other things, to promote and monitor the state of the environment in the municipality through monitoring, surveys and studies and to give advice and provide training on environmental protection as well as to make proposals to other authorities and issue opinions on environmental matter. The duties are provided for, among other things, in

the Environmental Protection Act, Land Extraction Act, Waste Act, Water Act, Nature Conservation Act and Act on off-road traffic. In some supervisory matters, the ELY Centres and the environmental authorities in municipalities have partly the same powers.

The Environmental Protection Act requires the ELY Centres and the municipal environmental authorities to draw up plans for regular supervision in the municipalities. The plan must contain information on environmental conditions in the area in question, identify all activities that pose a risk of pollution and describe resources and means available for purposes of supervision and enforcement as well as to describe the organisational structure of the supervision, criteria for risk assessment and cooperation between the authorities in charge of the supervision and enforcement. Plans prepared by the ELY Centres usually cover requirements set for supervision under the Environmental Protection Act, Chemical Act, Waste Act and Water Act. The ELY Centres and municipal environmental authorities carry out inspections and checks at facilities they supervise in accordance with the supervision plans, so that all facilities are inspected periodically. Places and frequency of the inspections are determined on the basis of environmental risk assessments of the facilities concerned. In addition, inspection visits are also carried out on the basis of reports from members of the public and, for example, due to failures at installations.

When an unlawful situation is detected, the ELY Centres and municipal environmental authorities are obliged to remedy the situation in accordance with provisions of the law that has been violated and the Administrative Procedure Act. In addition to the administrative follow-up, the authorities enforcing control must always assess the need to make a request for an investigation, depending on the situation. As a general rule, suspicions of acts or omissions in breach of environmental laws should be reported to the police for criminal investigation. However, no report is necessary, if under the circumstances, the act is considered of minor significance and if protecting public interest does not require prosecution. The ELY Centres may appear as injured parties in environmental crime cases provided for in the Waste Act, Water Act and Environmental Protection Act. In such cases, the ELY Centres have the right to be heard in the course of the criminal investigation and in court. They also have an independent right to prosecute and to appeal against court decisions.

The municipal environmental authorities and the ELY Centres cooperate with the police and the prosecution authority in investigations conducted into suspected criminal cases. Cooperation has been further intensified and enhanced since the establishment of joint working groups in environmental matters at regional level. Where necessary, the authorities act as experts in environmental law in the course of the criminal investigation, and in court proceedings, they usually also appear as witnesses summoned by the prosecutor.

The ELY Centres made 18 requests for criminal investigation in 2021. The number was clearly lower in 2021 than in 2020 (45), and it also deviates from the annual average of the requests made by the ELY Centres (around 40). The requests concerned suspected criminal acts against the Water Act, Environmental Protection Act, Waste Act, the Nature Conservation Act or the Land Use and Building Act, among others. The majority related to criminal acts under the Environmental Protection Act (42 %), Water Protection Act (21 %) and Nature Conservation Act (17 %).

### **Enforcing control over the Waste Act**

The Waste Act (464/2011) is to: promote the circular economy and sustainable use of natural resources, reduce the amount and harmfulness of waste, prevent risks and harm to health and the environment caused by waste and waste management, ensure effective waste management and prevent littering.

The ELY Centres and the municipal environmental authorities serve as the supervisory authorities referred to in the Waste Act. The Act provides a number of specific duties they have to carry out, either jointly or separately.

Under the Waste Act, the Finnish Environment Institute (SYKE) is responsible for supervision of and enforcement control over international shipments of waste. The Social and Health Licensing and Inspectorate for Health and Welfare steers the prevention of health hazards caused by waste within its remit. Municipal waste management authorities are responsible for waste management tasks of the municipality under the Waste Act. Regional State Administrative Agencies issue environmental permits for major waste management facilities, such as landfills, incinerators, hazardous waste treatment plants and large conventional waste recovery and disposal facilities.

According to the Waste Act, the supervisory authorities must periodically inspect and run checks at facilities and enterprises treating institutional or professional waste, generating hazardous waste, transporting or collecting waste professionally, acting as waste brokers or delivering international shipments of waste. If the activity requires an environmental permit, inspections are carried out as part of permit control under the Environmental Protection Act.

In recent years, several ELY Centres have started to carry out checks together with the police on professional waste carriers. The checks include inspections of the equipment, extract of the waste management register and transfer documents. The inspections have revealed shortcomings in the documentation; for example, some carriers were registered their waste management at all.



The authorities must report to the police, when there is reason to suspect a criminal offence. However, no report is necessary, if the criminal act is considered minor under the circumstances and if protecting public interest does not require prosecution. The ELY Centre appears as the injured party in a criminal case when the public interest has been harmed.

Various types of waste crime have become more common in recent years, including burial, burning and storage of waste on properties, and the supervisory authorities find various waste-related omissions and infringements in controlling environmental permits.

### **9.1.2 The Finnish Environment Institute (SYKE)**

The Finnish Environment Institute (SYKE) is the competent authority referred to in the Waste Shipment Regulation (EC) No 1013/2006, acts as the authority granting permits and exercising control over international shipments of waste and is also responsible for their control together with other competent authorities in accordance with the national inspection plan referred to in the EU Waste Shipment Regulation. Priority areas for inspections are selected on the basis of a risk assessment. Depending on the type of waste, inspections are carried out both at source and during collection, transport or treatment.

The Finnish Environment Institute (SYKE) is the competent authority for the Ozone Regulation (EC) No 1005/2009 and the F-gas Regulation (EU) No 517/2014 and acts as the market supervisory authority for these substances and equipment containing them. Customs controls the import. Supervisory authorities under the Environmental Protection Act supervise the maintenance of refrigeration equipment alongside other supervision work. The Finnish Environment Institute (SYKE) 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 (SYKE) is the competent permit authority referred to in the CITES Regulation (EC) No 338/97. The Regulation implements the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and also contains provisions and permit requirements for activities involving CITES species in the EU and in the Member States. The Finnish Environment Institute (SYKE) is the permit authority within the meaning of the Act on the Protection of Whales and Arctic Seals (1112/1982).

The Finnish Environment Institute (SYKE) 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.

Finland is about to join the Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea. Parties receiving hazardous or noxious substances carried by sea as bulk cargo must report the received cargo exceeding a threshold value to the Finnish Environment Institute.

### **9.1.3 The Finnish Safety and Chemicals Agency (TUKES)**

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

## **9.2 Police**

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

The police have a duty to conduct criminal investigation into the matter reported whenever there are grounds to believe that it is a question of a criminal act. The investigation is usually conducted by the local police, but the case may be referred to 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 about the case to the prosecution authority and cooperate closely with them while conducting the investigation. Customs and the Border Guard also conduct criminal investigation into environmental offences within their remit.

Roughly one in three environmental offences reported to the police is solved. When the criminal investigation is complete, the case is then referred to prosecution for consideration of charges. As a rule, the prosecutor is required to bring charges for the suspected offence, when they consider the act to be a criminal offence under the law, there is probable cause to support the guilt of the suspect and other requirements set for bringing charges are met. Subject to certain prerequisites, 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 The Border Guard

### 9.3.1 Basic duties

In addition to other statutory duties, the Border Guard also has competence to conduct criminal investigation into environmental offences and natural resource offences. For example, the Border Guard controls 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 mainly investigates natural resource offences (mainly hunting and fishing offences) and violations of the above-mentioned Acts. 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 by the agency in the context of enforcing control are investigated. The Border Guard investigates cases falling under its competence or if required by the scope of the investigation or a lack of resources, refers them to the police. Offences falling outside the Border Guard's competence are reported to the competent criminal investigation authority i.e. to the police or Customs.

Pursuant to the Act on Cooperation between the Police, Customs and the Border Guard (687/2009), section 2, subsection 2, the Border Guard may take 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 taking the 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 efficient performance of their statutory duties. When necessary, the Border Guard and the police have set up joint investigation teams to enhance the investigation of hunting offences, in particular.

The Border Guard performs a variety of duties in Finland's territorial waters. The agency 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.

The Border Guard already has the lead in maritime rescue operations in response to accidents at sea as well as in response to discharges of oil and chemicals from ships in Finland's territorial waters, maritime waters and exclusive economic zone. The agency also acts as the lead authority in enforcing control over the provisions on discharges from ships in the sea area under the Act on Environmental Protection in Maritime Transport. Under the Rescue Act (379/2011), the Border Guard is responsible for response operations in cases of environmental damage. Rescue services are responsible for leading rescue operations in coastal and archipelagic areas in the event of oil and chemical spills.

The Border Guard is responsible for international cooperation in prevention and detection of discharges of oil and chemicals from ships by representing Finland at meetings arranged in relation to international agreements, especially the Baltic Sea Commission (HELCOM) and Nordic cooperation meetings (Copenhagen Convention). Cooperation with the European Maritime Safety Agency's (EMSA) CleanSeaNet satellite-based oil spill detection service and EMSA's working group on oil spill response are also important in developing oil spill response and detecting discharges. The Border Guard is also a competent authority under the Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic (MOSPA).

The purpose of enforcing control is to interrupt illegal activities detected in Finland's territorial waters, take response measures as well as to safeguard investigations of administrative oil discharge fees and subsequent criminal investigations. The Border Guard's Dornier aircraft patrol over Finnish maritime waters nearly every day. Both Finland's territorial waters and exclusive economic zone are comprehensively covered by the patrol flights. Aerial monitoring is coordinated with Swedish and Estonian authorities, and the Border Guard also patrols 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 (SYKE). Comprehensive oil spill prevention and detection, as described above, also have a deterrent effect on unlawful discharges of substances from ships.

The oil spill detection system is complemented by the European Maritime Safety Agency's (EMSA) CleanSeaNet satellite imaging service providing satellite images of Finland's territorial waters. Both CleanSeaNet and the Dornier aircraft are able to detect potential discharges in the dark and in cloudy weather. Satellite images showing suspected discharges of oil detected are forwarded to the Border Guard. The images are checked at the command centre of the Western Finland Coast Guard and whenever necessary, an aircraft or some other unit outfitted with detection equipment is dispatched to inspect the sighting and determine whether the leaked substance is oil or something else.

The Border Guard also participates in detecting aerial emissions from ships and in enforcing control over detrimental anti-fouling systems used to protect ships.

The European Union Control Regulation for compliance with the rules of the Common Fisheries Policy requires all Member States to maintain Fisheries Monitoring Centres to monitor professional fishing activities and fishing effort. The Border Guard also performs the duties of a Fisheries Monitoring Centre under the Council Control Regulation.

In the year under review, new provisions were added in the Marine Environmental Protection Act, Chapter 2a on ship-to-ship transfers of harmful and hazardous cargoes and fuel in Finnish waters and in the exclusive economic zone. The Border Guard is also involved in enforcing control over these new provisions in Finland's maritime waters and the exclusive economic zone, alongside its other duties. The amendment to the Marine Environmental Protection Act also introduced a new task for the Border Guard: In future, the Border Guard will control, in Finnish territorial waters and the exclusive economic zone, compliance of ships not falling within the scope of Title X, Article 1 of Directive 2002/59/EC of the European Parliament and of the Council establishing a Community vessel traffic monitoring and information system for ship traffic and repealing Council Regulation 93/75/EEC (the so-called "Tracking Directive") with the obligation to deposit ship-generated waste in ports.

### **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 ships for unlawful discharging of oil into the sea. The legislation of Åland extends the scope of the 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.

In the year under review, an amendment to the Marine Environmental Protection Act extended the scope of the administrative oil discharge fee to concern inland waters. The amendment entered into force on 01 July, 2021. The Border Guard imposes an administrative oil discharge fee for oil spills in inland waters, too. The fee is imposed at the request of the police, who enforce control over the Act and conducts criminal investigation into discharges from ships in inland waters.

According to the Marine Environmental Protection Act, violation of the prohibition of discharge of oil or oily mixtures or hydrocarbons having similar characteristics and other harmful substances similar to those used on board of a ship in Finnish waters or in the exclusive economic zone, is subject to an administrative oil discharge fee. The fee may only be waived for discharges that are minor in volume and impact on the environment. However, an oil discharge fee will only be imposed on a foreign ship in transit in Finland's exclusive economic zone, if the discharge causes or is conducive to cause substantial damage to Finland's coastline or related interests or to the natural resources of Finland's territorial sea or the exclusive economic zone. The oil discharge fee is imposed by the Border Guard. In addition, in exceptional circumstances where the discharge of oil into the sea has taken place, for example, in an emergency or forced situation to save human life or in any other such emergency or accident situation, the fee may be waived or reduced. The amount of the oil discharge fee is determined on the basis of the amount of oil discharged and the gross tonnage of the ship concerned, in accordance with the rates specified in the Annex to the Act on Environmental Protection in Maritime Transport.

Identifying the perpetrator or establishing whether they had acted intentionally or negligently is not a pre-requisite for imposing the administrative oil discharge fee. Nevertheless, the Border Guard is required to collect objective evidence on the fact that the discharge came from a specific ship and that it is not a question of the above-mentioned exceptional circumstances. The Border Guard conducts the investigation required for imposing the administrative oil discharge fee. Opinions on the environmental impact of the discharge of oil are requested from the Finnish Environment Institute (SYKE), whenever necessary. Analyses of oil samples together with respective opinions are requested from the Forensic Laboratory of the National Bureau of Investigation. The Border Guard has assigned the West Finland Coast Guard in Turku with the procedure for imposing the administrative oil discharge fee. 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.

On 01 April 2006, provisions on the administrative oil discharge fee were included in the Act on the Prevention of Pollution from Ships (300/1979) whereas there were hardly any amendments made in the provisions on the oil discharge fee of the Act on Environmental Protection in

Maritime Transport 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 pursuant to the Criminal Code. The legislation was largely drawn up on the basis of the system in use in Sweden. The key difference between the two systems is that in Sweden, the amount of the oil discharge fee calculated on the basis of an annual rate determination criteria (in Swedish: *prisbasbelopp*) defined in the legislation, which allow annual increases to the oil discharge fee whenever required. In Finland, however, the amount of the oil discharge fee has remained the same since the entry into force of the Act, and as the amount is based on the Table of Rates appended to this Act, an increase in the amount of the oil discharge fee would require amending the Act.

A comparison in 2022 showed that the amounts of oil discharge fees in the Finnish and Swedish Tables of Rates are still remarkably close, as the increases in the price base under the Swedish system have been moderate. In Sweden, the monetary rate from 2019 to 2022 has gone up by 171 euros. 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 the amount of the oil discharge fee 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 sanctioning and the administrative oil discharge fee**

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

The criminal justice system takes priority over the administrative oil discharge fee. When a defendant is found guilty of impairment of the environment, for example, for an unlawful discharge of oil to the sea, the court cannot impose an administrative oil discharge fee to that defendant. An administrative oil discharge charge already imposed on the person before their conviction must be removed on application. No administrative oil discharge fees imposed by the Border Guard have been removed on that ground as of yet.



## 9.4 Customs

### 9.4.1 Basic duties

Customs is to facilitate trading in goods and ensure legality of the trade, to collect customs duties efficiently and to protect the society, the environment and citizens in its operational field. Customs is responsible for levying customs duties, controlling of imports and exports and international transport, taking other clearance measures and compiling statistics on foreign trade. Customs is a competent criminal investigation authority with powers to investigate customs offences within its jurisdiction.

For carrying out the principal duties, 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 office, namely 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 enforcement of control over the import, export and transit of 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 are in place to protect the environment and biodiversity of those countries. The CITES export restrictions, on the other hand, are in place to protect the environment within the EU. The 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 the control of compliance with regulations on the international trade in the endangered plant and animal species specified in the above-mentioned EU legislation.

#### **9.4.3 Control of shipments of dangerous goods, hazardous materials and radioactive substances**

Customs also has a significant role in protecting the environment as the authority controlling shipments of radioactive materials, hazardous substances and dangerous goods. Shipments to and from Finland are checked both by staff at border crossing points and by mobile control teams within the country. Effective checks are in place to ensure that non-compliant shipments are tackled at the border immediately.

In Finland, the main border crossing points have stationary automatic stations measuring radiation i.e. gates for freight shipments and passenger traffic in addition to the gates. At the turn of the 2000's, there were still shipments that had to be turned back to their countries of origin; since then, there have been no new cases. A few alarms are caused at the gates by vehicles each year, but even these have proved to be so low in radiation that identifying the source has not been possible. Alarms are triggered, for example, by road salt (calcium chloride), ceramic objects and fertilisers. So far, no illegal shipments of actual nuclear materials (plutonium, uranium) have been detected.

Customs has organised special roadside spot checks for commercial vehicles carrying dangerous goods or hazardous substances and participated in the EU-/EEA-wide waste shipment control operations conducted by the Finnish Environment Institute (SYKE). Finnish border controls are some of the best in Europe, and various control systems have been developed significantly in recent years.

#### **9.4.4 Control of substances depleting the ozone layer and fluorinated greenhouse gases**

To protect the ozone layer, the manufacture, use, import and export of substances that deplete the ozone layer are largely prohibited. Import and export restrictions, compliance with which is controlled by Customs, apply to both ozone-depleting substances and products containing them. Restrictions apply to both new, regenerated and recycled ozone-depleting substances. Importing F-gases into the EU as chemicals or in inside equipment is also regulated and subject to a quota or an authorisation to apply the quota. Customs is responsible for controlling the import and export of the above substances and equipment containing them. Detected cases of import and export of unlawful substances and equipment are reported to the Finnish Environment Institute (SYKE) and, if necessary, criminal investigation will be launched into the case. Illegal trade in ozone-depleting substances and F-gases is reported to the Commission via the Finnish Environment Institute (SYKE).

#### **9.4.5 Control of international shipments of waste**

Customs is also tasked with the control of international waste shipments subject to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (Waste Shipment Regulation). According to the Waste Act (646/2011), section 22, the Finnish Environment Institute is the competent authority referred to in the Waste Shipment Regulation and is responsible for cooperation with other competent authorities in the control of international shipments of waste. The Finnish Environment Institute (SYKE) is the contact point under the Waste Shipment Regulation. According to the Waste Act, section 25, the Finnish Environment Institute (SYKE) controls compliance with the provisions on international shipments of waste in cooperation with Customs.

Customs and the Finnish Environment Institute (SYKE) work closely together in enforcing control over waste shipments. Effective control and joint operations carried out by the authorities are certainly part of the reason why illegal waste shipments are being detected all the time.

In relation to international waste shipments, measures have been focused on waste flows which have been presumed to involve unlawful activities or such activities have already been detected. Such waste includes waste electrical and electronic equipment (WEEE) and end-of-life vehicles together with their spare parts. Checking export containers takes up a considerable amount of human resources; they are usually fully packed and determining what proportion of the load is waste, is possible only after unloading and possible 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 clearance period. Especially when the container is sent back to Finland by some other country, transportation and storage costs may be considerable. Pursuant to the EU Waste Shipment Regulation, the Finnish Environment Institute (SYKE) may require the exporter to deliver the waste for treatment within a certain period of time. If the exporter does not comply with the order, the Finnish Environment Institute (SYKE) takes care of delivering the waste for treatment at the exporter's expense.

In 2021, the number of export containers described above was lower than in previous years. This is probably due to the impact of the Covid-19 pandemic on the availability of containers and shipping costs.

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 control authority may request the exporter to provide a report on the matter within a specified time limit. If the exporter does not provide the report or it is found to be incomplete, the shipment or transportation is considered as an illegal shipment of waste. Detecting illegal international waste shipments requires well-functioning national cooperation between the Finnish Environment Institute (SYKE) and Customs. In addition to cooperation and information exchange at national level, the authorities make extensive use of international cooperation networks.

Finnish Customs took part in Operation DEMETER VII organised by the World Customs Organization (WCO) from 01 to 31 October, 2021. The operation was supported by Europol and INTERPOL and the UN Environment Programme (UNEP) and the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) were also involved. In 2020, 73 countries participated in Operation DEMETER VI.

The concerted enforcement effort resulted in a total of 131 seizures in the participating countries, including 99,000 tonnes of waste and an additional 78,000 pieces of other waste materials, worldwide. 90,872 tonnes i.e. 92 % of the seized waste materials consisted of metal waste, 6,859 tonnes i.e. 7 % consisted of various types of plastic waste and the remainder being waste related electrical equipment, computers, industrial manufacturing and production, etc. The seized waste also included used tyres, waste paper, textile waste and mixed wood waste.

In Finland, the operation targeted the export of waste shipments of plastic, electronics and chemicals. Customs coordinated the operation together with the Finnish Environment Institute (SYKE) taking care of official tasks related to the control of international waste shipments in Finland. In Operation DEMETER VI, examination of documents and other inspections related to

international shipments of waste were carried out in cooperation between Customs and the Finnish Environment Institute (SYKE).

During the Operation, three different shipments intended to be exported were inspected and subjected to documentary checks. One shipment of waste electrical and electronic equipment (WEEE) intended for export was detected. When the shipping documents were checked, they were found to contain errors. When the errors had been corrected, the shipment was approved for the export procedure.

Finnish Customs participated in Operation DEMETER for the third time.



## 9.5 National Prosecution Authority

An organisational reform of the National Prosecution Authority was implemented on 01 October, 2019 when the agency started its operations as the national authority comprising of five prosecution districts: Southern Finland, Western Finland, Northern Finland, Eastern Finland and Åland. A new national system of specialization was implemented in the context of the reform; posts of senior specialised prosecutors were made available through application for the most specialised prosecutors with the 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, persons and, more generally, at interests of security and safety. Environmental offences are classified as crimes against interests of security and safety. Currently, three senior specialised prosecutors have been appointed, but there are other prosecutors specialising in environmental crime working in the prosecution districts.

## 10 Environmental crimes reported to the authorities

Environmental crimes reported to the criminal investigation authorities are introduced in this Report by offence type. Authorities conducting investigation into environmental crime are the police, Customs and Border Guard. Environmental crime statistics are based on the offence type under which the case was investigated. Upon referring a case to prosecution and in trial, the offence type may change. The statistics do not reflect the actual environmental crime situation or provide information on threats to the environment, because the dark figure 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

Provisions on environmental offences included in the Criminal Code, Chapter 48. 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*. The minimum punishment is a fine, and the maximum punishment ranges from imprisonment of six months to six years.

<b>Environmental offences under the Criminal Code</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Impairment of the environment (Criminal Code, Chapter 48, section 1)	198	201	188	210	182
Aggravated impairment of the environment (Criminal Code, Chapter 48, section 2)	6	12	6	7	5
Negligent impairment of the environment (Criminal Code, Chapter 48, section 4)	2	0	0	2	4
Environmental infraction (Criminal Code, Chapter 48, section 3)	215	248	222	269	212
Nature conservation offence (Criminal Code, Chapter 48, section 5)	47	53	63	56	37

Aggravated nature conservation offence, Criminal Code, Chapter 48, section 5(a)	1	0	1	0	1
Building protection offence (Criminal Code, Chapter 48, section 6)	2	4	1	2	6
<b>Total</b>	<b>471</b>	<b>518</b>	<b>481</b>	<b>546</b>	<b>447</b>

**Table 1: Environmental offences under the Criminal Code, Chapter 48 filed by the criminal investigation authorities in 2017 - 2021.**

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

Impairment of the environment means for example, placing, discharging or leaving an object or substance in the environment or breaching certain obligations laid down in environmental laws or waste legislation in such a way that the act is conducive to pollute the environment or to cause a health hazard. The statutory definition of the offence is highly complex, containing a variety of modi operandi together with a plenty of references to material environmental legislation. The offence is punishable when committed either intentionally or through gross negligence. Impairment of the environment is punishable by a fine or imprisonment for at most two years.

The majority of suspected cases is investigated by the police, usually by the financial crime unit of a local police department. Environmental offences that come under investigation usually concern, among other things, unauthorised disposal or storage of various types of waste, either on the properties of residential or industrial buildings.

In addition to the police, Customs or the Border Guard are also competent authorities to conduct criminal investigation into suspected cases of impairment of the environment. In 2021, the cases of impairment of the environment detected and investigated by Customs were waste shipments destined for export without necessary waste shipment permits.

As far as cases investigated by the Border Guard are concerned, this offence type mainly concerns illegal discharges of oil from ships.

### ***Summaries of selected court cases in 2021***

#### **Impairment of the environment, Criminal Code, Chapter 48, section 1**

Helsinki Court of Appeal of 14 December, 2021, decision No. 21/152924, case ref. R 19/166 (not final)

According to the charge, the company had been running a crushing plant for stone material and for concrete, brick and asphalt waste under an environmental permit granted by the Finnish Environment Institute. The permit regulations allowed the company to store a maximum of 60,000 tons of treated and untreated waste in the production site at one time. However, the company had repeatedly received and crushed concrete and brick waste at the site, although the permitted storage amounts were exceeded multiple times. Furthermore, the company had not applied for a permit for fundamentally changing the activity. From the year 2010 up until 12 May 2014, the storage amounts were repeatedly exceeded to a considerable extent, except for a temporary period at the end of 2012. Up until 2012, some treated waste was not reported to the supervisory authority at all, as the company considered this waste as product, not waste. The persons charged comprised the director of business operations holding a liable position in the company, the product and site manager and the regional manager.

The concrete and brick waste storage activities generated noise, dust and harm to landscape, and the related storage and use of fuel generated various leakage risks. The activities also generated other waste. The growing storage amounts increased the need for protective measures. Furthermore, when the activities were run and interrupted, there was a risk of littering the environment. The activities, as described above, presented a risk of environmental pollution, for which reason an environmental permit was required. The unauthorised activities and the activities exceeding the permitted activities increased the above-mentioned consequences and were likely to cause contamination of the environment, other similar harm or littering.

By violating the permit regulations, the company was able to receive, treat and sell more untreated concrete, as a result of which it gained a profit of around 2,500,000 euros compared to a situation complying with the permit regulations.

The District Court of Itä-Uusimaa considered that the company's conduct constituted at most the environmental infraction provided in the Criminal Code, Chapter 48, section 3, and dismissed the charge as time-barred. The Helsinki Court of Appeal reviewed the matter based on the prosecutor's views, and imposed the 40 and 50 dayfines to the defendants. The company was imposed a corporate fine of 100,000 euros, and the criminal proceeds of 2,505,293.56 euros referred to in the charge were ordered forfeit to the State.

### **Impairment of the environment, Criminal Code, Chapter 48, section 1**

Rovaniemi Court of Appeal of 26 March, 2021, decision No. 21/113590, case ref. R 19/387 (no information on finality)

According to the charge, the person holding the positions of CEO and a member of the company's board and another person working as a property manager with supervisory duties were responsible for the fact that around 5,000 m<sup>3</sup> of soil containing about 48,880 kg of waste had been dumped at an area of around 0.2 hectares. The waste consisted of, for example, construction waste, mixed wood waste (including impregnated wood) and municipal waste, for which waste disposal had been partly neglected. Waste had also been burnt. This conduct had caused a risk of pollution and contamination of soil; the concentration of antimony, arsenic, mercury, cadmium, cobalt, chromium, copper, nickel, zinc, vanadium and carbon hydrides in the soil exceeded the threshold and guideline values laid down in the Government Decree on the Assessment of Soil Contamination and Remediation Needs.

The District Court of Lappi imposed 50 dayfines to the CEO for impairment of the environment, but dismissed the charge in other respects. The Court of Appeal reviewed the matter upon appeal by the prosecutor and imposed a corporate fine of 10,000 euros to the company. For the person convicted by the District Court, the punishment increased to a suspended sentence of imprisonment of three months, and 30 dayfines were imposed to the other person for aiding and abetting the offence.

### **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 of impairment of the environment. If the damage caused by impairment of the environment or the risk of such damage was particularly high or the offence was committed for substantial financial gain or in a particularly methodical way, the offender may be convicted of aggravated impairment of the environment. The sentence for the offence is imprisonment for at least four months and at most six years.

In 2021, the police filed five cases of aggravated impairment of the environment. . Most of them were reported by environmental authorities and concerned environmental pollution/littering with waste, but criminal investigations were also conducted into unauthorised use of soil in, among others, the mining industry.

The cases filed in 2021 as aggravated impairment of the environment were committed nationwide. The fact that, in the case of aggravated environmental offences, suspects are typically already known at the reporting stage, contributes to the fact that the police do not become aware of environmental offences to anywhere near the extent that they actually occur.



## ***Summaries of selected court cases in 2021***

### **Aggravated impairment of the environment, Criminal Code, Chapter 48, section 2**

District Court of Länsi-Uusimaa of 30 April 2021, decision No. 21/119258, case ref. R 19/1325 (not final)

According to the charge, the defendant had received on behalf of another company a total of 1,498.5 cassette loads of surplus soil from one construction project and a total of 896 cassette loads of surplus soil from another construction project on the company's property, all of which was located in a Class I aquifer important for the municipality's water supply and in the immediate groundwater formation area of the aquifer and also, to a large extent, within the protection zone of the water intake of the municipal water utility. In both companies, the defendant held a dominant position. The defendant held a controlling position in both of the two companies concerned.

The receiving company invoiced the transport company for 130,590 euros for the reception of the soil at the place of commission. The act was interrupted as the illegal landfill activity was stopped with a temporary order issued by environmental auditors immediately after the environmental authority had been accidentally informed of the illegal activity by a third party.

As a result of this conduct, the municipal water abstraction site had to be closed for several months in 2016 and 2017, and the municipality incurred other significant water management costs as well.

The surplus soil that was dumped contained soil exceeding the threshold values, topsoil containing a lot of micro-organisms, and poorly drained soil and soil mixtures that deteriorated natural soil and were likely to cause a danger or harm to health or the environment through groundwater effects or a similar violation of public or private interests, that is, the difficulties in water abstraction and the costs incurred by the local water supply plant.

The defendant professionally treated, used and disposed of surplus soil in the protected area around the water abstraction site. Disposal of the surplus soil created an unlawful landfill in the area, with a fee was charged for reception of the surplus soil.

The defendant was sentenced for aggravated impairment of the environment for a suspended sentence of imprisonment of nine months, and was ordered to forfeit to the State criminal proceeds of 120,590 euros jointly and severally with the company which had received the surplus soil. The court imposed a corporate fine of 50,000 euros to the company as the owner of

the property concerned. Roughly 16,000 euros were ordered to be paid as damages to the water abstraction site.

The transport company and the person responsible for its operations were also charged with impairment of the environment, but these charges were dismissed. The judgment has been appealed to the Helsinki Court of Appeal. Any consideration of the appeal will take place in 2023.

### **10.2.2 Environmental infraction, Criminal Code, Chapter 48, section 3**

If the impairment of the environment referred to in the Criminal Code, Chapter 48, section 1 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 discarded or abandoned in inappropriate locations in small quantities. Offenders are usually unknown 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.

#### ***Summaries of selected court cases in 2021***

##### **Environmental infraction, Criminal Code, Chapter 48, section 3**

South Ostrobothnia District Court of 06 October 2021, decision No. 21/141671, case ref. R 21/141671 (final)

The defendant intentionally abandoned waste in the environment so that the act was conducive to cause littering of the environment. The defendant discarded scrap metal, furniture and other items classified as waste on a wood lot owned by another person. Taking account of the damage caused to the environment, the impairment of the environment was deemed petty when assessed as a whole. The court imposed 15 dayfines to the defendant for an environmental infraction and ordered them to pay 40 euros as a victim surcharge and 350 euros as cleaning costs.

### **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 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 2021.

#### ***Summaries of selected court cases in 2021***

#### **Negligent impairment of the environment, Criminal code, Chapter 48, section 4**

Central Finland District Court of 20 January 2021, decision No. 21/102601, case ref. R 20/1824

The defendant, out of negligence other than gross negligence, affected the environment in violation of the prohibitions against soil contamination and groundwater pollution by releasing a substance into the environment so that the damage or danger of damage caused to the environment or health was especially serious, with due consideration to the long duration, wide effect and other circumstances of the damage caused. The defendant had lost control, out of negligence, of the oil tanker he was steering, as described in charge 1. A tank cracked as a result of falling, and 4 to 6 cubic metres (about 5,000 litres) of oil products dangerous to the environment, i.e. petrol and diesel oil, leaked into the environment. Oil leaked into two different properties. The concrete damage caused to the environment and health was especially serious considering the fact that oil soaked into the soil, the excavation waste amount of 114.6 tons, and the long-term environmental impacts. The danger of damage was also especially serious because of the large amount of the oil products transported.

The court imposed 30 dayfines to the defendant for negligent impairment of the environment and for causing a traffic hazard a joint punishment and ordered them to pay 80 euros as a victim surcharge.

#### 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. Other criminal offences include the import or export of protected species of plant or animal in violation of the CITES Convention. 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 of plant or animal species 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. Cases are most often detected in international mail and passenger traffic, and online purchases in particular have been found to include unlawful products.

<b>Nature conservation offence (Criminal Code, Chapter 48, section 5)</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Police	46	52	58	52	34
Customs	1	0	4	4	2
Border Guard	0	1	1	0	1
<b>Total</b>	<b>47</b>	<b>53</b>	<b>63</b>	<b>56</b>	<b>37</b>

**Table 2: Nature conservation offences under the Criminal Code, Chapter 48 filed by the criminal investigation authorities in 2017 - 2021.**

#### *Summaries of selected court cases in 2021*

##### **Nature conservation offence, Criminal Code, Chapter 48, section 5**

Päijät-Häme District Court of 11 January 2021, decision No. 21/100824, case ref. R 20/1670 (final)

The defendant had, intentionally or through gross negligence, unlawfully destroyed or defaced an animal protected under the Nature Conservation Act, namely by shooting dead a barnacle goose. The court ordered 30 dayfines to the defendant and ordered them to pay 80 euros as a

victim surcharge. The court also ordered to forfeit to the State 336 euros as the value of the barnacle goose.

### **10.2.5 Aggravated nature conservation offence, Criminal Code, Chapter 48, section 5a**

A nature conservation offence could be considered aggravated, when it is deemed aggravated when assessed a whole and it puts nature in serious risk, there financial benefit was sought in the offence or it was committed in a particularly methodical manner. The penal scale ranges from imprisonment of four months to maximum of two years.

### **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. The penal scale ranges from a fine to a maximum of two years of imprisonment.

## **10.3 Natural resources offences under the Criminal Code**

Chapter 48a of the Criminal Code provides for natural resource offences, which are listed in Table 3. The penal provisions apply to hunting, fishing, forestry and timber, and 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. No exceptional total number of natural resource crimes recorded in 2021.

<b>Natural resources offences under the Criminal Code</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Hunting offence, Criminal Code, Chapter 48a, section 1	131	163	120	149	135
Aggravated hunting offence, Criminal Code, Chapter 48a, section 1a	16	12	12	25	14
Fishing offence, Criminal Code, Chapter 48a, section 2	9	8	2	3	6
Forestry offence, Criminal Code, Chapter 48a, section 3	4	1	6	9	1

Unlawful exploitation of mineral resources in the Antarctic, Criminal Code, Chapter 48a, section 3a	0	0	0	0	0
Timber offence, Criminal Code, Chapter 48a, section 3b	0	0	0	0	0
Concealing pouched game, Criminal Code, Chapter 48a, section 4	0	0	0	1	0
Aggravated concealing pouched game, Criminal Code, Chapter 48a, section 4a	2	0	0	0	1
<b>Total</b>	<b>162</b>	<b>184</b>	<b>140</b>	<b>187</b>	<b>157</b>

**Table 3: Natural resources offences filed by the criminal investigation authorities in 2017–2021.**

### 10.3.1 Hunting offence, Criminal Code, Chapter 48a, 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. The penal scale ranges from a fine to a maximum of two years of imprisonment.

The hunting offences investigated by the Border Guard are committed in a wide variety of ways. In the investigations begun in 2021, the subjects of the suspected offences included elk, deer and wildfowl. Cases involving the use of hunting devices and hunting methods prohibited by the Hunting Act were also investigated as hunting offences.

<b>Hunting offence, Criminal Code, Chapter 48a, section 1</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Police	126	156	116	141	124
Border Guard	5	7	4	8	11
<b>Total</b>	<b>131</b>	<b>163</b>	<b>120</b>	<b>149</b>	<b>135</b>

**Table 4: Hunting offences filed by the criminal investigation authorities in 2017 - 2021.**

#### *Summaries of selected court cases in 2021*

#### **Hunting offence, Criminal Code, Chapter 48a, section 1**

Lapland District Court of 11 June 2021, decision No. 21/126360, case ref. R 21/123 (final)

According to the charge, the defendants hunted in violation of the Hunting Act or a provision or regulation on the protection of game issued under it. They shot a female elk followed by under a one-year-old calf. The shot female ended up in the possession of the hunters. One of the hunters also harmed, intentionally or out of gross negligence, another person's property as one of the shots hit this person's dog which was right next to the elk.

The court imposed 60 dayfines to one of the defendants for a hunting offence committed out of gross negligence and ordered them to pay 80 euros as a victim surcharge. Their firearm was ordered to forfeit to the State as an instrument of the offence and they were ordered to pay 2,400 euros as the value of the elk.

For the other two defendants, the District Court considered that the penal provision on complicity provided in the Criminal Code, Chapter 5, section 3 only applies where two or more persons have committed an intentional offence together. As described above, the act was not intentional and does not constitute complicity, and the charges against them were dismissed.

### **10.3.2 Aggravated hunting offence, Criminal Code, Chapter 48**

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 large amount of game. An offence committed in a planned manner or one seeking considerable financial gain may also be considered aggravated. The killing of certain species, such as wolverine, lynx, bear, deer, otter or wolf, may also meet the definition of an 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 2021, there were 14 aggravated hunting offences filed in the Crime Report Index: The police launched criminal investigation into eight cases and the Border Guard into six cases.

The notable cases of the aggravated hunting offences in 2021 concerned bears and wolves.

Hunting offences, such as game offences and poaching, are not always reported to the criminal investigation authorities. Detection and criminal investigation into hunting offences is also hindered by the “law of silence” possibly observed by local residents and hunters.

<b>Aggravated hunting offence, Criminal Code, Chapter 48</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Police	14	10	11	10	8

Border Guard	2	2	1	15	6
<b>Total</b>	<b>16</b>	<b>12</b>	<b>12</b>	<b>25</b>	<b>14</b>

**Table 5: Aggravated hunting offences filed by the criminal investigation authorities in 2017 - 2021.**

***Summaries of selected court cases in 2021***

**Aggravated hunting offence, Criminal Code, Chapter 48a, section 1a**

North Karelia District Court of 20 December 2021, decision No. 21/155215, case ref. R 21/773 (no information on finality)

The defendant acquired strychnine nitrate, cyanide and xylitol for use in bundles of minced meat that he prepared, or for hiding the substances in dead birds or other small animals. They made these poisonous baits with the intention of killing, harming or at least chasing wolves in case these ate the baits. The defendant searched for and traced wolves and their traces in the terrain and obtained information on the internet about other people's findings and observations, with the intention of finding for his baits such locations that they would be discovered by wolves with deadly or harmful consequences. The defendant placed baits in the environment. There was no evidence showing that wolves had actually found the baits.

The defendant was sentenced for a hunting offence to a suspended sentence of imprisonment for four months and was ordered to pay 80 euros as a victim surcharge. They were also subjected to a hunting prohibition and ordered to surrender their hunting card to the game management association. In the initial charge concerning an aggravated hunting offence, it was considered that several wolves had actually eaten the baits, but the district court considered that there was no proof of this.





### 10.3.3 Fishing offence, Criminal Code, Chapter 48a, 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. The penal scale ranges from a fine to a maximum of two years of imprisonment.

<b>Fishing offence, Criminal Code, Chapter 48a, section 2</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Police	8	3	1	2	6
Border Guard	1	5	1	1	0
<b>Total</b>	<b>9</b>	<b>8</b>	<b>2</b>	<b>3</b>	<b>6</b>

**Table 6: Fishing offences filed by the criminal investigation authorities in 2017–2021.**

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

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.

### ***Summaries of selected court cases in 2021***

Pirkanmaa District Court of 21 October 2021, decision No. 21/44447, case ref. R 21/2229 (final)

According to the charge, the defendant violated the order issued under the Forest Act concerning the protected forest area by logging trees in the southern edge zone of a rivulet referred to in the Forest Act, section 10, leaving only a 6 - 7 m wide strip of trees, although the logging had been planned in such a way that the edge strip of the rivulet would remain more than 20 metres wide. As a result, the trees alongside the rivulet were exposed to wind damage, the shade of the rivulet habitat was significantly reduced and the microclimate altered.

The district court found that it was undisputed that there had been lining in place along the edge of the rivulet to prevent the area from being logged. It was also undisputed that the logged area was bigger than it should have been. The defendant admitted that they had cut down one tree in the area before logging. According to a witness, the brush cutter used by the defendant cannot be used to cut down a big tree. According to the witness, it was not in the buyer's interest to clear trees from the prohibited area. It could be more beneficial to the seller as they would more revenue from the sale of timber. The district court found that the amount of sales proceeds in the entire transaction was not so significant that the defendant would have had a reason to remove lining. The district court also concluded that the defendant could not have used a brush cutter to cut down trees in the protected area. Therefore, there was no evidence as to whom or how the lining had been removed so that subsequently, the logging company and its contractor had not been aware of the lining of the protected area. On the above grounds, the district court dismissed the case.

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

A person, who hides, obtains transports, conveys or markets game that has been obtained through a hunting offence or fishing offence, shall be sentenced for concealing of poached game. 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 under the Criminal Code

The offences endangering health and safety listed under the Criminal Code, Chapter 44 also include such 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. In 2020, the total number of offences endangering health and safety increased clearly from the previous years.

<b>Offences endangering health and safety provided for in the Criminal Code</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Health offence, Criminal Code, Chapter 44, section 1	13	13	11	28	15
Endangerment of health, Criminal Code, Chapter 44, section 1	2	2	0	4	8
Aggravated endangerment of health, Criminal Code, Chapter 34, section 5	0	0	0	0	0
Unlicensed practice of veterinary medicine, Criminal Code, Chapter 44, section 4a	6	6	10	7	12
Genetic technology offence, Criminal Code, Chapter 44, section 9	0	0	0	0	0
Nuclear energy use offence, Criminal Code, Chapter 44, section 10	1	0	0	0	0
Explosives offence, Criminal Code, Chapter 44, section 11	119	127	145	133	133
Careless handling, Criminal Code, Chapter 44, section 12	275	269	318	341	368
Radioactive material possession offence, Criminal Code, Chapter 44, section 12a	0	0	0	1	0
Transport of dangerous substances offence, Criminal Code, Chapter 44, section 13	6	15	3	4	3
<b>Total</b>	<b>422</b>	<b>432</b>	<b>487</b>	<b>518</b>	<b>539</b>

**Table 7: Offences endangering health and safety fed by the criminal investigation authorities in 2017-2021.**

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

A health offence may be committed by a person, who deliberately or through gross negligence and in violation of the Pesticide Act, Product Safety Act, Chemical Act, Health Protection Act, 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.

#### ***Summaries of selected court cases in 2021***

**Health offence, Criminal Code, Chapter 44, section 1 (Aggravated fraud, Criminal Code, Chapter 36, section 2; Marketing offence, Chapter 30, section 1; Violation of the Food Act, Food Act, section 79; Firearms offence, Chapter 41, section 1)**

South Ostrobothnia District Court of 21 December 2021, decision No. 21/155424, case ref. R 21/524 (final)

A criminal case was pending before the district court in which the defendant had committed a number of unlawful acts in food-related activities of his company, including the following:

- In the course of the business of selling meat for food, they had deceived persons acting on behalf of food retailers, restaurants and other entities who were his customers, as well as consumers who bought food, about the species and country of origin of the meat they sold;

- The defendant had also repeatedly and intentionally misrepresented or at least misleadingly stated on labels of packages of meat, price lists and other marketing material supplied to buyers that the meat was locally produced;
- The company was not allowed to freeze or otherwise handle meat on its premises. The company had cut, ground, thawed and refrozen, packaged and stored several thousand kilograms of meat intended for sale as non-frozen food in the food premises in question, even though such operations were not authorised by the authority. The authorities had not been able to verify compliance with the statutory hygiene provisions. Therefore, the act was conducive to causing serious danger to the life or health of other people.
- The defendant had also supplied several parties with at least several hundred kilograms of meat intended for human consumption contrary to the prohibition issued by the authority. They had also failed to deliver the meat for disposal in accordance with the regulations.

The district court sentenced the defendant for aggravated fraud, marketing offence, health offence, violation of the Food Act and firearms offence to a joint suspended sentence of seven months (the punishment was reduced on the basis of confession). They were also ordered to forfeit instruments used in the commission of the offences, pay damages to the victim and banned from doing business for three years.

The company was ordered to forfeit 55,000 euros as criminal proceeds and instruments used in the commission of the offences and pay damages to the victim.

A company employee was sentenced to a suspended sentence of four months for aiding and abetting aggravated fraud, marketing offence and a health offence and to pay 80 euros as a victim surcharge.

#### **10.4.2 Explosives offence and radioactive material possession offence, Criminal Code, Chapter 44, sections 9 - 11 and 12a**

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. The penal scale ranges from a fine to a maximum of two years of imprisonment.

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 (for example, stolen) explosives during a search conducted in relation to another suspected offence.

### ***Summaries of selected court cases in 2021***

#### **Explosives offence, Criminal Code, Chapter 44, section 11**

Päijät-Häme District Court of 04 February 2021, decision No 21/105433, case ref. R 20/1076 (final)

The defendant had intentionally possessed an explosive namely, a dynamite cartridge with a unit weight of 130 grams, in violation of the Act on Safe Handling of Dangerous Chemicals and Explosives. The explosive was seized from the defendant during a search of the property under his control. The court imposed 60 dayfines on the defendant for an explosives offence, narcotics offence and firearm offence and ordered them to pay 80 euros as a victim surcharge.

#### **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 2021***

#### **Careless handling, Criminal Code, Chapter 44, section 12**

Länsi-Uusimaa District Court of 13 January, 2021, decision No 21/101281, R 20/2711 (no information available on finality)

The defendant had failed to take care to avoid a fire, and had failed to exercise due care and special caution when handling the fire. The defendant had lit an open fire to consume the lawn in a lower yard. The fire had blown out of control with the wind across a ditch to the defendant's barn that burned to the ground. There had been a car and tools in the barn. All the property in the barn was destroyed in the fire. The Rescue Serve extinguished the fire and prevented it from spreading to the forest and other buildings.

The court imposed 25 dayfines to the defendant for careless handling and ordered them to pay 40 euros as a victim surcharge.

#### 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.

### 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.

<b>Penal provisions of the Water Act, Chapter 16, sections 2-3</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Violation of a permit under the Water Act	3	5	4	5	3
Violation of the Water Act	6	10	8	12	8
<b>Total</b>	<b>9</b>	<b>15</b>	<b>12</b>	<b>17</b>	<b>11</b>

**Table 8: Violations of the Water Act filed by the police in 2017 – 2021.**

#### ***Summaries of selected court cases in 2021***

Violation of the Water Act, Chapter 3, section 16

Oulu District Court of 30 August, 2021, decision No 21/135409, case ref. R 21/2229 (final)

The defendant, as the person responsible for the project, negligently failed to notify the State supervisory authority of a non-negligible ditch drainage under the Water Act at least 60 days before or during the measure. The defendant worked for the company as a foreman and managed operations on behalf of the company at a property owned by the company. In connection with other company activities, excavation work had started in June 2019 (and continued until autumn 2019) with an excavator next to the road. When inspecting the site, the environmental inspector found that the drainage ditch had been excavated over a distance of

about 150 metres and that the ditch was about 2-3 metres wide and at its deepest point was about 4 metres. However, the company had not been prohibited from continuing the measure at that time. On 31 January, 2020 the company was served with an order not to remove/use excavated soil from the site, which has been complied with. The district court imposed 12 dayfines to the defendants for a violation of the Water Act.

## 10.6 Offences under other Acts

In addition to the penal provisions described above, there are several other penal provisions provided for the environment directly or relating to it. For example, Waste Act section 147; Environmental Protection Act, section 225; Fishing Act, section 118; Off-Road Traffic Act, section 25; Nature Conservation Act, section 58; Land Extraction Act, section 17; and Act on Fishing in the River Tornionjoki Fishing Region, section 7 - they all include penal provisions. When compared to the number of environmental and natural resources offences provided in the Criminal Code, the number of minor offences under these special provisions is clearly higher. Table 9 shows violations reported to the criminal investigation authorities in 2017 – 2021. The authorities filed 187 violations of the Waste Act last year. In 2021, the police filed 362 violations of the Fishing Act. A closer look to individual penal provisions reveals that some of the offences are hardly ever realised. 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.

<b>Offences under other Acts</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Violation of the Waste Act	160	163	174	219	187
Violation if the Fishing Act	485	566	430	506	362
Off-road traffic violation	280	260	174	160	195
Nature conservation violation	28	21	27	45	40
Violation of the Extractable Land Resources Act	7	8	4	3	3
Violation of the Act on Fishing on the Tornionjoki Fishing Zone	0	0	0	0	0
Nature conservation violation	14	18	28	13	16
Offences during the transport of dangerous goods	419	421	325	374	378
Building violation	28	23	42	33	23
Building protection violation	0	0	0	0	2



Violation of the Antiquities Act	3	1	0	1	1
Hunting Violation	63	90	106	102	115
Forestry violation	12	22	25	90	63
Hunting violation	176	173	129	188	166
<b>Total</b>	<b>1675</b>	<b>1766</b>	<b>1464</b>	<b>1734</b>	<b>1551</b>

**Table 9: Other environmental violations filed by the criminal investigation authorities in 2017–2021.**

***Summaries of selected court cases in 2021***

**An offence during the transport of dangerous goods, Act on Transporting Hazardous Waste, section 19**

South Ostrobothnia District Court of 09 November 2021, decision No. 21/147414, case ref. R 21/1157 (final)

The defendant, acting as driver, intentionally or at least negligently, had failed to ensure that the vehicle was suitable for the transport in question or that it was properly loaded. They had also failed to make sure that the transport was carried out in accordance with the rules and regulations in force. The defendant had not verified that the quantity limits for dangerous goods per transport unit laid down in the order of the Finnish Transport and Communications Agency was not exceeded or that the large labels and markings prescribed for the vehicle and the tanks of the tank-vehicle were affixed. The defendant was carrying a total of 321 kilograms of dangerous goods (UN1263) with a transport limit of 20 kilograms in a semi-trailer attached to the vehicle he was driving. A total of 357 kilograms of dangerous goods was on board. The vehicle driven by the defendant lacked the required warning plates. The court imposed 15 dayfines to the defendant for an offence during the transport of dangerous goods.

**Hunting violation, Hunting Act, section 74**

Central Finland District Court of 16 December 2021, decision No. 21/154739, case ref. R 21/180 (final)

The defendants had organised a hunt for cervid other than roe deer without a hunting master. The defendants shot an elk and its calf after the deer hunt, even though the hunt took place without a hunting master. The district court imposed 15 dayfines for to the defendants.

### **Nature conservation violation, Nature Conservation Act, section 58**

Ostrobothnia District Court of 10 March 2021, decision number 21/110686, R 20/1010 (no information available on finality)

According to the charge, the defendant had purchased and kept in his possession, without derogation from the prohibition under Article 49 of the Nature Conservation Act granted by the competent ELY Centre, the following stuffed specimens of bird species referred to in Article I of the Birds Directive: velvet scoter (2), red-throated loon, great cormorant, razorbill, Eurasian curlew, horned grebe, pomarine jaeger, sterna hirundo (2), black guillemot, red crossbill and common snipe.

The defendant had also purchased and kept in his possession, without derogation from the prohibition under Article 49 of the Nature Conservation Act issued by the competent ELY Centre and without a permit or certificate under Article 8 of Council Regulation No 338/97 issued by the Finnish Environment Agency, the following stuffed specimens of bird species referred to in Article 1 of the Birds Directive and Annex A to Council Regulation No 338/97: common kestrel (3), northern goshawk (2), western marsh harrier, short-eared owl, Eurasian sparrowhawk, common buzzard, long-eared owl and rough-legged buzzard. The defendant had bought the birds on 28 March, 2016 and they were seized from their possession on 07 February, 2019. The court imposed 15 dayfines on the defendant, forfeited the birds and ordered the defendant and the seller to pay jointly and severally 1,000 euros as damages. In the case of the seller, the right to prosecute had already expired before pressing charges.

### **Building violation, Land Use and Building Act, section 185**

Kanta-Häme District Court of 26 October 2021, decision number 21/145146, R 21/1508 (no information available on finality)

The defendant had, without the authorisation required by the Land Use and Building Act, begun construction or taken some other action contrary to that Act. The defendant had commissioned removing soil from a building site they own. The site had not been granted a building permit or a landscaping permit for removing soil. The District Court imposed 20 dayfines to the defendant.

### **Violation of the Environmental Protection Act, Environmental Protection Act, section 225**

Itä-Uusimaa District Court of 18 August 2021, decision No 21/133506, case ref. R 21/1347 (final)

The defendant had not complied with the obligation to report under the Environmental Protection Act, section 118 by failing to report an event organised within the framework of a company's

business that had caused temporary noise. The defendant had acted on behalf of the company in agreeing on arranging a concert at a musical event organised by a restaurant run by the company. The report should have been made 30 in advance. The music event/concert produced a powerful, widespread noise. The noise could be heard clearly over a distance of about 600 - 700 metres and also in the natural sound environment of people other than those listening to the concert. By not submitting the notification, the company had saved 1,140 euros as processing fees of the noise report (which the municipality of Sipoo had not received) and roughly 600 euros as possible noise measurement costs. The court imposed 20 dayfines to the defendant and forfeit 1,140 euros from the company as criminal proceeds.

### **Forestry violation, Forest Act, section 18**

North Savonia District Court of 22 January 2021, decision number 21/102497, case ref. R 20/1477 (no information available on finality)

The defendant, acting in his capacity as procurement agent for the holder of the logging rights and in that capacity as representative of the logger, was grossly negligent in carrying out a management or operation measure in a habitat of particular importance for forest biodiversity within the meaning of section 10(2) in breach of section 10 a. The defendant had drawn up a forest use declaration for the intended felling, which included an area of 0.64 hectares to be logged, adjacent to a small watercourse of particular importance for forest biodiversity, namely a stream and its immediate surroundings, characterised by special growing conditions and microclimate due to the proximity of the water and the layer of trees and shrubs. The defendant had failed to ensure that the felling took account of the above-mentioned stream and its immediate surroundings so that the area of the stream at a distance from the stream corresponding to the average height of the trees would not be logged or logging is otherwise made in such a way as to preserve the special characteristics of the stream and its surroundings. When planning and marking the felling pattern to be felled, the defendant had not made sure that the area to be excluded from logging was sufficiently clearly marked, for example by means of tape or some other clearly visible mean. As a result of the defendant's conduct, the area where trees were logged extended to an average distance of 7 metres to the edge of the stream, and some of the trees in this area were also removed. The felling and subsequent cultivation had affected an area of about 0.3 hectares in the vicinity of the stream and its immediate surroundings. In the immediate vicinity of the brook, the average tree height was about 16 metres, so a protection zone of at least 16 metres wide should not have been logged. Furthermore, the felling had been carried out in such a way that it had extended beyond the felling area indicated in the forest use declaration by an area of approximately 0.15 hectares. Due to the defendant's conduct, regeneration felling had been carried out in the area designated

as a protection zone in violation of the Forest Act, section 10a, subsection 3, as a result of which the stream and its immediate surroundings lost their typical characteristics. Furthermore, as the protection zone along the stream was measured too narrow, it increased a risk of damage caused by wind and storm and, subsequently causing several trees falling down within the protection zone, which in part, increased the damage of the special characteristics. The court imposed 30 dayfines to the defendant for a forestry violation. The forest owner was ordered to forfeit 2,543.50 euros to the state as a result of the unlawful conduct.

### **10.6.1. Violations of the Waste Act**

The majority of the incidents reported by the environmental authorities or citizens filed as violations of the Waste Act 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 (e.g. 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.

#### ***Summaries of selected court cases in 2021***

##### **Violation of the Waste Act, Waste Act, section 147**

Satakunta District Court of 06 October 2021, decision number 21/141744, case ref. R 20/2629 (final)

The defendant had infringed the prohibition on the abandoning or treating waste in an uncontrolled manner under the Waste Act, section 13, subsection 1 and the prohibition on littering under section 72 of the same Act by dumping furniture and other unwanted household furnishings into the environment in such a way that it was conducive to cause untidiness, disfigurement of the landscape or a decline in amenities. The municipality suffered financial loss of 315.70 euros for the cleaning and proper disposal of the above-described waste. The violation of the Waste Act was punished with 20 daily fines and the damages of 315.70 euros to the municipality.

##### **Violation of the Waste Act, Waste Act, section 147**

Pirkanmaa District Court of 17 December 2021, decision number 21/155077, case ref. R 21/3621 (final)

The defendant had loaded metal-containing waste into a sea container which they documented as "green waste". Therefore, the export was not covered by a waste shipment permit in

accordance with the EU Waste Shipment Regulation. The waste was to be sent to Pakistan for recycling purposes. The container was stopped and inspected in Belgium, where it was found that the waste did not correspond to the waste described in the documentation and that it did not meet the requirements for green waste. The container was returned to Finland where it was also inspected. The inspection found that the waste in question contained various dismantled parts of electrical equipment as such and that therefore, the export would have required a waste shipment permit. According to the reports, the waste did not contain hazardous waste. The court imposed ten dayfines on the defendant for violating section 147(18) of the Waste Act and Regulation (EC) No 1013/2006 on shipments of waste.

### **10.6.2. Oil discharges and spills detected and oil discharge fees imposed**

In addition to Finland's waters and exclusive economic zone, the Border Guard detects 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. Crossborder 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 2021, the Border Guard detected 22 oil discharges in comparison to 39 detected cases in Finland's territorial waters in 2020. The majority of the detected discharges occurred close to a

shore or a 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.

One new administrative oil discharge investigation was launched in 2019 to determine the conditions for imposing an oil discharge fee. There was one decision on an oil discharge fee made, imposing an oil discharge fee of 28,064 euros on a foreign vessel. Longer investigation times have been partly due to the fact that the NBI Forensic Laboratory has sent samples taken from oil spills on board and from the sea to Sweden for analysis.

### **10.6.3 Criminal investigation into discharges of oil from ships**

Pursuant to a memorandum of understanding 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. There were no requests to refer criminal investigations to the police in 2021.

The Border Guard has assigned the investigation of oil discharges from ships, along with the administrative investigations related to oil discharge fees, to the West Finland Coast Guard. Criminal investigation into maritime environmental crimes is conducted by a head of criminal investigation and a 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.

Oil discharges from ships did not result in criminal investigation into impairment of the environment in 2021. Eight cases were investigated as environmental infractions; four cases resulted in warning. In other cases, investigation was terminated on the account of insignificance of the leaked amount or suspended because the suspected source of the discharge could not be identified

## 10.7 Environmental offences referred to prosecutors and courts of law

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

<b>Environmental offences</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Impairment of the environment (Criminal Code, Chapter 48, section 1)	79	91	71	77	85
Aggravated impairment of the environment (Criminal Code, Chapter 48, section 2)	3	10	7	3	9
Environmental infraction (Chapter 48, section 3)	32	34	30	37	26
Negligent impairment of the environment (Criminal Code, Chapter 48, section 4)	0	2	0	3	0
Nature conservation offence (Criminal Code, Chapter 48, section 5)	20	17	19	20	19
Building protection offence (Criminal Code, Chapter 48, section 6)	1	1	1	1	1
<b>Total</b>	<b>135</b>	<b>155</b>	<b>128</b>	<b>141</b>	<b>140</b>

**Table 10: Environmental offences and infractions referred to prosecutors in 2017-2021.**

<b>Natural resources offences under the Criminal Code</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Hunting offence, Criminal Code, Chapter 48a, section 1	36	32	39	37	36
Hunting offence, Criminal Code, Chapter 48a, section 1	5	9	7	7	8
Fishing offence, Criminal Code, Chapter 48a, section 2	4	4	1	0	3
Forestry offence, Chapter 48a, section 3	0	1	0	4	2
Unlawful exploitation of mineral resources in the Antarctic, Criminal Code, Chapter 48a, section 3a	0	0	0	0	0
Timber offence, Criminal Code, Chapter 48a,	0	0	0	0	0

section 3b					
Aggravated concealing pouched game, Criminal Code, Chapter 48a, section 4	0	0	0	0	0
Aggravated concealing pouched game, Criminal Code, Chapter 48a, section 4a	0	0	0	0	0
<b>Total</b>	<b>45</b>	<b>46</b>	<b>47</b>	<b>48</b>	<b>49</b>

**Table 11: Natural resources offences referred to prosecutors in 2017 - 2021.**

<b>Offences endangering health and safety under the Criminal Code</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Health offence, Criminal Code, Chapter 44, section 1	6	5	7	8	6
Endangerment of health, Criminal Code, Chapter 34, section 4	1	1	0	1	1
Aggravated endangerment of health, Criminal Code, Chapter 34, section 5	0	0	0	0	0
Unlicensed practice of veterinary medicine, Criminal Code, Chapter 44, section 4a	0	1	2	1	1
Genetic technology offence, Criminal Code, Chapter 44, section 9	0	0	0	0	0
Nuclear energy use offence, Criminal Code, Chapter 44, section 10	1	0	0	0	0
Explosives offence, Criminal Code, Chapter 44, section 11	49	70	42	47	40
Careless handling, Criminal Code, Chapter 44, section 12	53	59	63	59	63
Radioactive material possession offence, Criminal Code, Chapter 44, section 12a	0	0	0	0	0
Transport of dangerous substances offence, Criminal Code, Chapter 44, section 13	0	4	5	1	5
<b>Total</b>	<b>110</b>	<b>140</b>	<b>119</b>	<b>117</b>	<b>116</b>

**Table 12: Offences endangering health and safety forwarded to prosecutors in 2017 - 2021**



<b>Penal provisions included in the Water Act</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Permit violation under the Water Act, Chapter 16, section 2	3	1	1	2	1
Violation of the Water Act, Chapter 16, section 3	0	0	3	3	3
<b>Total</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>5</b>	<b>4</b>

**Table 13: Offences against the Water Act referred to prosecutors in 2017 - 2021**

<b>Offences under other Acts</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Violation of the Waste Act	21	22	12	24	25
Fishing violation	18	17	12	21	12
Off-road traffic violation	10	9	4	4	3
Nature conservation violation	10	0	4	9	6
Hunting violation	11	16	13	0	0
Forestry violation	4	10	4	0	0
Nature conservation violation	2	2	7	3	5
Offences during the transport of dangerous goods	2	2	5	5	2
Building violation	16	8	12	14	6
Violation of the Extractable Land Resources Act	1	0	4	3	2
<b>Total</b>	<b>95</b>	<b>86</b>	<b>77</b>	<b>83</b>	<b>61</b>

**Table 14: Other environmental offences referred to prosecutors in 2017 - 2021.**

In 2021, prosecutors brought charges for offences provided for in Chapter 48 of the Criminal Code 79 times, i.e. in 58.09 % of cases. The average time taken for the consideration of charges was 5.95 months. A total of 37 charges were brought for the offences provided for in Chapter 48a of the Criminal Code, amounting to 71.7 % of all cases. In these cases, the average duration of consideration of charges was 6.18 months.

<b>Year</b>	<b>Sentenced as charged</b>	<b>Charges dismissed in full or in part</b>	<b>Dismissal %</b>	<b>All decisions</b>
<b>2017</b>	113	37	24.67 %	150

<b>2018</b>	157	41	20.71 %	198
<b>2019</b>	135	49	26.63 %	184
<b>2020</b>	118	35	22.88 %	153
<b>2021</b>	138	48	25.81 %	186

**Table 15. Trend in the number and proportion of charges dismissed in full or in part in 2017-2021.**

The average fine imposed for offences under the Criminal Code, Chapter 48, section 1 amounted to approximately 50 dayfines.<sup>22</sup>

## 10.8 Environmental offences reported to the criminal investigation authorities and referred to consideration of charges

The National Monitoring Group has monitored environmental crime in Finland since 1997. To the extent an offence may carry a sentence of imprisonment, penal provisions for environmental offences are collected in the Criminal Code. Various other Acts contain more lenient penal provisions in addition to those. This, along with the classification criteria of environmental offences, has an impact on the monitoring of environmental crime. 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 police are the general crime prevention authority investigating all criminal acts regardless of the offence type. Environmental crimes referred to prosecution by the police are mainly offences related to impairment of the environment as they concern storing or disposing waste. It is often a question of an environmental crime committed in the course of business, motivated by cost savings.

The environmental offences and violations with an environmental dimension detected by Customs and referred to prosecution have mostly been cases of impairment of the environment,

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<sup>22</sup> Statistics Finland.

nature conservation offences, violations of the Waste Act, Offences during the transport of dangerous goods and cases of smuggling animals.

The numbers of environmental and natural resources offences filed by the Border Guard took a decrease from the previous year. No cases of impairment of the environment involving oil discharges were filed during the year under review, and the number of environmental infractions involving emissions declined, too. The numbers of aggravated hunting and fishing offences also continued to fall whereas the number of hunting offences detected by the Border Guard increased.

## 11 Conclusions

The importance of nature and environmental values and their protection have recently become more prominent, partly due to the public discussion on the climate change and its increasing threat to native biodiversity and wildlife. It is, therefore, expected that new, stricter regulations will be introduced in the near future, bringing additional costs in the form of emission reductions, waste and land treatment, etc. Thus, environmental offences where offenders aim to avoid proper emission and waste management to minimise environmental protection costs and required investments in protective measures, are likely to become more beneficial. It is likely that the authorities will detect and be reported more environmental offences as a result of the authorities being more effective and due to stricter regulations.

Cases of aggravated environmental impairment are typically committed in the context of business activities. Environmental damage usually relates to the storage, handling or dumping of waste, refuse and various chemicals and unauthorised soil removal or the handling and storage of soil. Environmental impairment has been committed, for example, in the handling of slurry, animal carcasses and crops to be disposed. Environmental impairment is characterised by significant criminal benefits, damage caused and substantial 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. The expenses incurred from repairing environmental damage caused by an offence and the amount of possible restoration costs could be given more weight in the assessment of the severity of environmental offences and the significance of environmental values. The restoration costs of 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.

On the other hand, when assessing the seriousness of offences, it should be considered that even so-called restoration does not take untouched nature back to the state it was before the commission of an illegal act.

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

Based on the big picture of environmental crime, the following become emphasised: 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 Environmental Crime Strategy Implementation Group will continue its well-established work and update its program regularly.

Environmental authorities have a key role to play in enhancing environmental protection and enforcing control over the related laws and regulations, thereby in preventing environmental crime. Their success in the prevention work decreases subsequently the number of environmental offences reported and detected by the criminal investigation authorities. Active operations of the regional cooperation groups become emphasised in developing inter-agency cooperation between the authorities. Each police department has its own regional working group focused on environmental crime; these groups have contributed to the inter-agency cooperation and in building the overall picture of environmental offences in Finland. With the help of good cooperation at regional level, the authorities aim to respond to unlawful acts speedily and efficiently.

Environmental crime is likely to produce major financial and other illegal benefits. To prevent such crime being profitable to the offender, attention should be specifically paid to tracing and recovering the proceeds in the course of the criminal investigation in which inter-agency cooperation becomes emphasised. The assessment and evaluation of the proceeds of crime are not always straightforward at the time of making a request for investigation. In the beginning of the criminal investigation, possible criminal proceeds are not always known or they have not been specified clearly enough. Assessment of the amount of criminal proceeds is a continuous process throughout the criminal investigation. The proceeds or a part thereof may remain unclaimed, if they are not adequately presented in the request for investigation.

Releasing information to the public on measures taken by various authorities, results of investigations and court decisions can help to enhance environmental crime prevention in general. Training and guidance on methods to fight environmental crime should be continuous. 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.