

# ENVIRONMENTAL OFFENCES IN FINLAND 2009-2010

## THE ANNUAL REPORT FOLLOWING THE INTERPOL RESOLUTION AGN/65/RES/25A



Finnish National Monitoring Group  
ENVIRONMENTAL OFFENCES  
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Cover: Niina Viitala

## **1 The Finnish National Group for Monitoring of Environmental Offences**

Based on the resolution AGN/65/RES/25 made by the INTERPOL General Assembly on 23 – 29 October, 1996, a national working group connected with the National Bureau of Investigation (NBI) was founded on 01 of October, 1997. Duties of the working group were agreed to include monitoring environmental crime and development in cooperation with various supervisory authorities. The working group also prepares an annual report on the environmental crime situation in Finland. The chairman of the group is senior police inspector Arto Hankilanoja from the Police Department, Ministry of Interior, and the secretary is forensic chemist Niina Viitala (NBI). Members are chief police inspector Matti Rinne (Police Department, Ministry of the Interior), senior detective superintendent Janne Järvinen (NBI), governmental secretary Elise Sahivirta (Ministry of Environment), senior customs inspector Jenni Lehtilä (National Board of Customs), state prosecutor Christian Lundqvist (Office of the Prosecutor General) and senior inspector Silja Hallenberg (Border Guard Department, Ministry of the Interior). The working group also gives assistance and advice when legal assistance is requested from Finland. Working group members can be best reached via the switchboards of the corresponding organisations. The working group left its first report on 01 July, 1998.

## **2 Dangers relating to the environment and environmental offences**

### **2.1 Environmental dangers**

Potential dangers to the environment have been listed e.g. in the Strategy for Securing the Functions Vital to Society 2006 (Council of State's Decision in Principle, 23<sup>rd</sup> of November, 2006) as follows:

- A nuclear accident in Finland or a serious accident involving hazardous substances;
- A serious disruption in water utilities;
- Widespread contamination of drinking water;
- Storms, floods or dam failures requiring evacuations or causing extensive destruction;
- Heavy metal or chemical concentrations contents rising above approved limits for health;
- Total contamination of soil and waters rendering them unfit for use;
- Oil and chemical transport accidents in sea areas and inland waters;
- Long-distance fallout of airborne pollutants causing destruction of forests;
- Radioactive fallout; and
- Mass extinction of species.

Among human functions or acts of nature that may cause environmental dangers are given the following:

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

The most serious environmental dangers involve global warming (causing increased rainfall and flood risks) ozone depletion, pollution of seas and oceans, extinction of species, diminishing potable water resources and land erosion. The most serious regional and local dangers referred to in the Strategy are the effect on the Baltic Sea and as a result of industrial production, heavy metal or chemical concentrations in the environment and poor waste management contaminating the soil.

## **2.2 Dangers relating to environmental offences**

### **Situation in Finland**

From a national point of view, law enforcement authorities are clearly aware of the dangers relating to environmental offences.

In particular, project Lokki, commissioned by the Finnish National Group for Monitoring of Environmental Offences and carried out by the Main Division of the National Bureau of Investigation in 2007, yielded nationwide information about the nature and prevalence of environmental crime.

Within project Lokki, a detailed questionnaire regarding environmental crime was sent to all Finnish municipalities and environmental centres. The approximately 200 replies indicated that in general, the same environmental risks and dangers occurred throughout the whole nation:

- Littering and single neglects related to waste management
- Illegal disposal of construction and demolition waste
- Clandestine car scrap yards and scrap collectors
- Sludges from farming and their treatment
- Unauthorised take of soil and dumping
- Improper storage and treatment of hazardous waste
- Improper actions in the groundwater catchment and surface water areas

In Finland, every year about 50,000 cars are estimated to disappear, which is half of all the cars to be wrecked. Together with the cars, 300,000 litres of waste oil and other liquids disappear.

Additionally, there have been public cases that have included, for instance, evident attempts to conceal the latest owner's responsibility for the proper treatment of scrap by disguised transactions. The hazardous waste, especially asbestos, contained in the ships, render the proper treatment of scrap ships very expensive.

Project Lokki also sought to find out dangers relating to the treatment of WEEE waste (electrical and electronic waste). 70 to 100 tons (ca. 7,000 trailer loads) of WEEE waste accrues annually in Finland.

Furthermore, after the completion of project Lokki (2007), a much-publicised case of aggravated impairment of the environment was brought to light in the metropolitan area, which was connected to the so-called suspected dumping of sewage waste in the ground, ditches and rainwater sewers. At least to date, the aggravated environmental offence in question, committed in the trade of a large and long-standing enterprise of the business branch, has been exceptional in the Finnish circumstances as a consequence of its extent, length and significance.

The absence of a police authority specialised in the investigation and prevention of environmental offences in Finland can also be noted as one threat relating to environmental crime. For this reason, no police activities aimed at revealing environmental offences are being carried out in Finland either. The uncovering actions of pre-trial investigation authorities, such as surveillance and follow-up, would increase the risk of being caught as regards such environmental offences which are carried out in a particularly professional manner.

Since no uncovering environmental crime prevention exists in Finland, the environmental crime prevention and investigation actions of the police can be regarded as concluding, even though effective crime prevention should be focused on uncovering and investigation of offences occurring in real time.

The fact that the police lack resources for carrying out real-time investigation significantly complicates the recovery of the proceeds acquired by environmental crime as well. For instance, if the investigation actions are dragging years behind the actual dumping-related environmental offences, it is probable that the suspects have already succeeded in using or concealing the received proceeds. Moreover, this fact has special significance in the restoration of the actual scenes of environmental offences (e.g. dumping land areas), the restoration costs of which are in danger of being left to the community.

Together with the usually lenient punishment practices in environmental offences, the fact that the offenders succeed to conceal and use the gained significant proceeds can be seen as a possible threat in the mushrooming of environmental crimes and their special harmfulness and seriousness.

A particular threat (also) in Finland is that environmental crime will spread as one of the forms of activity of organised crime as well. Suitable footing for this thread can already be seen, for instance, in relation to building contracts. Already now there are active organised crime groups and enterprises operating under their actual control in the building industry of the larger cities (renovation and reparation actions, among other things). It is quite unlikely that the enterprises of the grey economy operating as a part of the organised crime would get rid of the demolishing waste in other than illegal ways.

In addition to environmental crime, the execution of uncovering actions within the building industry (also land building) in particular would reveal other crime of the black economy as well. Carrying out uncovering actions with so-called unconventional means in a suspected case of aggravated impairment of the environment would also be quite likely with regard to the Coercive Measures Act. A case of aggravated impairment of the environment is a so-called overtly aggravated crime, the maximum punishment of which is six years of imprisonment, which has a special significance regarding, for instance, carrying out wiretapping operations.

“Waste is Gold” is a proverb that has especially proven to be true regarding to the relationship between Italian organised crime and particularly wide-spread dumping crime of hazardous waste. Even though corresponding global threats are not in sight in Finland, all the prerequisites for worsening environmental crime especially in larger cities and population centres already exist.

The number of statistically compiled environmental crimes and especially the number of aggravated environmental crimes cannot be regarded as being on the level of the Nordic countries. Only a fraction of the number of environmental offences reported in Sweden is reported in Finland. However, the smaller number of detected environmental offences cannot be regarded to be unrelated to the overall corresponding number of environmental offences committed in Finland.

Collecting and exporting rare species of flora and fauna poses an environmental threat from a national point of view. Unfortunately, Finland serves as a transit country especially in trafficking illegally caught birds and collected eggs in the area of the Arctic Ocean. The growth of Finnish tourism to Asia will probably also give rise to an increase in the importation of rare species of flora and fauna.

It may also be suspected that illegal big game hunting and hiding poach have some characteristics of professional and organised crime. In this respect, aggravated forms of these offences were included in the Penal Code on 01 April 2011.

Polluting the environment is often related to the seeking of financial gain. A person engaged in illegal activities wants to make savings in different costs, such as waste management costs or investments in environmental protection. In these cases, pollution is only one of the consequences, as the illegal activities may also distort competition by giving the perpetrator better possibilities to make profit out of his business than those, who follow the law. Also in this area, the economic downturn may increase the number of problems.

The small number of municipal environmental inspectors can be seen as a considerable threat as such, regarding the aims for environmental crime prevention and bringing the committers of environmental crime to account. In some municipalities the environmental inspection post is understood as a so-called unwanted necessity, and the post for environmental inspector and secretary can be held as a so-called combination office, in which case it is likely that there will not be enough time or possibilities for effective environmental inspection and licence enforcement actions.

Because the local parties are aware of the weak situation of the control, they have even greater temptation to start illegal disposing or concealing of demolition waste or other hazardous substances.

### **The situation in the Baltic Sea region**

Important information on dangers posed by environmental offences to the near environs has previously been gained through the work of the Baltic Sea Task Force Expert Group on Environmental Crime, in particular. Unfortunately, this form of cooperation has in effect died out almost completely since Norway, an active member earlier, gave up the coordination of the group's operation a couple of years back. Today, the situational awareness of crime in the areas neighbouring Finland is based on information received through direct connections and the media.

As regards the situation in the countries neighbouring Finland, the least information has been acquired of environmental crime in **Russia**. The Finnish National Group for Monitoring of Environmental Offences is not aware of any kind of a police unit specialised in environmental offences or a prosecutor system for environmental offences having been established in Russia.

In **Sweden**, the annual number of environmental offences varies approximately between 4,000 and 5,000 cases according statistics. 4,198 cases were reported and compiled statistically in 2010. Of these, approximately 1,134 cases correspond to impairment of the environment or aggravated environmental offences in Finnish legislation. The number of cases corresponding to violation of waste legislation was 1,476. (Source: Penal Code Statistics for 2010 as regards Chapter 29 of the Penal Code, Brottsförebyggande rådet, www.bra.se)

Correspondingly, a total of 3,080 environmental crimes were reported and compiled statistically in **Norway** in 2009. (Source: Statistics Norway, [www.ssb.no](http://www.ssb.no))

Of Finland's neighbour countries, **Sweden** allocates the most resources to the prevention of environmental crime. Sweden has trained some 70 investigators and 20 heads of investigation (prosecutors) specialised in environmental offences. In addition, a group of four persons whose area of responsibility is environmental crime works under the authority of the Rikspolisens's money laundering unit.

In **Norway**, the national specialist unit for environmental crime prevention works under the authority of The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim, [www.okokrim.no](http://www.okokrim.no)). Additionally, environmental crime investigation is also carried out in local police departments by crime investigators who have received separate environmental crime training.

According to information obtained through project Lokki, typical dangers as regards environmental crime in Sweden are related to littering in general, unauthorised exporting of scrap cars and electrical and electronic waste, and hunting offences.

The number of environmental offences registered in **Estonia** is fairly low, as the table presented below suggests:

Environmental offences in Estonia from 2008 to 2010 (source: [www.just.ee](http://www.just.ee)):

	2008	2009	2010
· 354 § <i>Damaging or destruction of trees or shrubs</i>	3	1	0
· 356 § <i>Illegal cutting of trees or shrubs</i>	14	9	12
· 357 § <i>Violation of requirements for protection of protected natural objects</i>	2	0	0
· 361 § <i>Damaging of wild fauna</i>	4	2	2
· 363 § <i>Acting without natural resource utilisation permit or pollution permit</i>	4	3	10
· 364 § <i>Polluting environment</i>	2	0	0
· 367 § <i>Violation of requirements for handling dangerous chemicals or waste</i>	6	5	3

A particular danger relating to environmental crime is that activities become more organised and are carried out in a more professional manner. Usually, an environmental offence with a professional modus operandi is related to dumping waste, hazardous waste in particular. Construction business and particularly the construction and demolition projects chained on various levels have probably brought actors which dump construction waste and excess material illegally.

Nordic authorities have got evidence on illegal international waste transports in which electronic and other domestic utensil waste (including Freon) have been shipped to the developing countries. One of the reasons for such waste transports to Asia, is the cheap sea container shipments from Europe to Asia. Since the sea container traffic in the world is directed from the low cost production Asian countries to Europe, the transport of the sea containers is significantly cheaper back to Asia.

Organised shippings of car wrecks to Middle East and Africa have also been evidenced in Norway and Sweden. Financial fraud has also been related to them, as the scrap yards have received a payment for the appropriate processing of the cars, although the cars have in fact been shipped away from the EU area.

## **Dangers relating to environmental offences elsewhere**

Interpol has been gathering information about the dangers relating to environmental crime on an international scale. In 1992, the Environmental Crime Committee was established to work under the authority of Interpol. The Committee has established two working groups: the Wildlife Working Group, which focuses on so-called wildlife offences, and the Pollution Crime Working Group, which is the actual environmental crime working group.

The Pollution Crime Working Group is divided into the following subgroups, which serve as a platform for cooperation and exchange of information between the member states:

- Climate Change Crime and Corruption
- Operational Task Force
- Project Clean Seas
- Project on Exportation of Electronic Waste

The working group concluded that dealing with environmental crime requires more cooperation, exchange of information, joint operations, joint training, and a change of attitude, so that national judicial authorities would take environmental offences seriously.

Interpol's permanent environmental crime operation features a separate "data bank" of such offences related to the exportation of different types of waste materials which are carried out in an organised and professional manner.

200 delegates from approx. 50 member countries of Interpol participated in the 7th General Assembly of the Interpol Environmental Crime Committee in September, 2010. A short article about the Assembly can already be found at the Interpol website (<http://www.interpol.int>).

A Finnish representative of the NBI participated in the Assembly, and the previous time Finland had its representatives in the Environmental Crime Committee Assembly or in environmental crime working groups of Interpol in general was in 2005.

Many contemporary issues considering threats in environmental and natural resource crime were discussed in the Assembly both from the viewpoints of the post-industrialised countries and particularly from the African, Asian and South-American perspectives.

In addition to poaching and illegal logging, overfishing of the oceans can be particularly highlighted from the perspective of natural resource crime.

A special environmental issue introduced in the assembly was the concept of so-called carousel frauds relating to emissions trading, which are not considered as actual environmental offences as such, however.

More information about dangers relating to international environmental crime and cooperation between law enforcement authorities can be found, for example, at Interpol's website ([www.interpol.int](http://www.interpol.int)) and at the Environmental Crime Committee subpage (<http://www.interpol.int/Public/EnvironmentalCrime>).



### **3 International agreements and legislation on environmental offences**

#### **3.1 International instruments**

Finland has ratified several international agreements concerning the environment and matters relating to energy. These agreements relate to protection of air and waters, exploiting and protection of natural resources, waste management, flora and fauna as well as energy and space, for example the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel, 22 March 1989), CITES - The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 3 March 1989), MARPOL - International Convention for the Prevention of Pollution from Ships (London, 2 November 1973) and the Antarctic Treaty (Washington, 1 December 1959).

The CITES Convention covering some 22,000 species of flora and an excess of 6,000 species of fauna has been ratified by 166 Member States. The Convention prohibits trading in about 1,000 species whereas trading in certain other species is subject to licence. The CITES legislation is common to all the EU Member States. The CITES legislation has been followed since 1984 and as amended, since 1997. The CITES regulations set by the Council and Commission, in addition to the trade between the Member States, also provide on the trade within single Member States. Provisions on import are stricter than the Convention and there are more species covered than by the Convention.

In October 2008, the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) approved a revision to the MARPOL Convention Annex VI (Prevention of Air Pollution from Ships). The new regulations set limits to conventional nitrogen oxide and sulphur oxide emissions into the atmosphere and their deposition into the sea. In the Baltic Sea, for instance, the sulphur content of fuel oil used on board ships will be lowered from 1.5 per cent to 1.0 per cent with effect from 1 July 2010, and to 0.1 per cent with effect from 1 January 2015.

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

#### **3.2 European Community legislation on environmental offences**

Today, a significant part of the Finnish legislation on environmental offences comes from the European Community. Since most Community acts are adopted in the form of Directives, they must be implemented in Finland by means of either Acts or Government decrees. Directives are usually so-called minimum directives, which mean that at a national level it is also possible to issue provisions which set a stricter level of protection than provided by the Directive.

The great variation in penalties and penal scales between countries has been viewed as vitiating the efficiency of Community legislation, and in particular environmental legislation. Penalties cannot, in general, be considered to be sufficient in relation to the seriousness of offences and the extent of damage caused. Member States are not equal in terms of criminal sanctions, which have led to the emergence of systems of different levels in Europe. These systems are not uniform for all Europeans, which is likely to result in the transfer of criminal activities to those parts of Europe where regulation and supervision are

not as efficient as they should be. This was part of the reason for the adoption of the so-called Environmental Crime Directive (Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law, OJ L328/28; 6 December 2008), which came into force on 26 December 2008. Its aim is to guarantee a high level of environment protection in the member countries by setting minimum requirements for liability for penalty for actions impairing the environment. The Directive was published in the official EU magazine on 6<sup>th</sup> of December, 2008, and the member countries were to promulgate its obligations in 12 months time from the effective date (26<sup>th</sup> of December, 2009), in other words, no later than in December, 2010. As stated in the section (2) of the Directive, the concern over increasing environmental crime and its effects that increasingly extend beyond the borders of the country where the crimes are committed was in the background of adopting the Directive. The domestic legislation was already well-fit to qualify for the obligations of the Directive, but some changes were made, relating to, for instance, expanding the scope of penalty responsibility of a legal person, impairment of the environment and nature protection crime included in the chapter 48 of the Penal Code. The Ministry of Justice outlined and prepared the suggested changes.

### **3.3 Finnish legislation on environmental offences**

The Penal Code of Finland and various special environmental Acts contain provisions on environmental offences. The most serious offences are included in Chapter 48 of the Penal Code. Penal scales vary from a fine to the maximum of six years of imprisonment, depending on the seriousness of the criminal act in question. The reason why environmental offences were included as a separate entity in the Penal Code is to emphasise the blameworthiness of the acts. Other laws forming the actual environmental legislation, such as the Waste Management Act, Water Act, Nature protection Act or Environmental Protection Act, include minor offences punishable by a fine at the most.

Provisions on corporal criminal liability and corporate fine referred to in Chapter 9 of the Penal Code are also applied to the environmental offences referred to in Chapter 48.

Natural resource offences provided for in Chapter 48a of the Penal Code are similar to environmental offences. They include offences relating to hunting, fishing and forestry for which the maximum punishment is imprisonment. In respect to these offences, imposing a corporate fine is not possible. Hunting Act, Fishing Act and Forest Act contain provisions on minor violations.

Provisions on forfeiture apply to environmental and natural resources offences, too. Proceeds of crime are forfeited to the State also in these cases. It may concern also compensating costs caused by waste management saved by illegal actions.

### **3.4 Proposals for amendments in law**

In order to protect the environment, prevent environmental damages and to improve operational preconditions of the authorities, legal provisions of an administrative oil discharge fee were added to the Act of Prevention of Pollution from Ships (300/1979) on 01 April, 2006. The structural reform was underway for several years, and after its completion in 2009 the legal provisions of the administrative oil discharge fee were transferred virtually unchanged to the new Act of Seafaring Environmental Protection (1672/2009) on 01 January, 2010. A change in the provincial law approved by the Provincial Parliament of Åland in the end of 2009, with which the legal provisions of the administrative oil discharge fee were extended to apply to the Åland region as well, can be considered a significant

reform in regard to the administrative oil discharge fee system. The change became effective on 01 January, 2010. The duties relating to imposing oil discharge fees were transferred to the Border Guard Service by changing the presidential decree on the statutory duties of the Border Guard Service in Åland.

The Environmental Crime Directive mentioned in the paragraph 3.2. caused changes to the Chapter 44 of the Penal Code considering offences endangering health and safety so that a new section 17, which relates to corporal criminal liability, was added to the Chapter 44.

The enforcement of the Environmental Crime Directive was considered to require extending the corporal criminal liability to apply for nuclear energy use offence (Section 10), explosive use offence (Section 11) and careless handling (Section 12) that could not be the basis for imposing a corporate fine before.

Section 1 of the Chapter 48 of the Penal Code regarding impairment of the environment was changed so that the annulled decree of the Council of Europe and the European Parliament (EC) No. 2037/2000 concerning substances contributing to ozone depletion was replaced with a new decree (EC) No. 1005/2009. Additionally, a new so-called cleaning agents decree (decree of the Council of Europe and the European Parliament (EC) No. 608/2004 regarding cleaning agents) was added to the Section, and only the articles 3 and 4 of the decree were renewed as regulations, the violable procedures of which were criminalised according to the Section 1 of the Chapter 48 of the Penal Code.

Actions violating the CITES regulation were defined as environmental crimes under criminal liability stated in the Section 5 of the Chapter 48 of the Penal Code, because actions violating the CITES regulation that were punishable only as nature protection violations could not come into question in defining the criminal liability of a legal person. Additionally, some changes were made and they became effective on 25<sup>th</sup> of December, 2010.

A new section 1 a regarding aggravated hunting offences was added to the Chapter 48a of the Penal Code and it became effective on 1<sup>st</sup> of April, 2011. An aggravated hunting offence is punishable if the offence is committed in a particularly cruel or ruthless way or if the offence is aimed at a large number of game animals. Additionally, a hunting offence is also considered aggravated if the offence is committed in a particularly planned way or if considerable financial benefits are pursued. A hunting offence that involves illegal killing or harming of a wolverine, lynx, bear, Finnish forest reindeer, otter or a wolf is considered aggravated as well. Moreover, a prerequisite for sentencing to imprisonment for an aggravated hunting offence is always that the offence is considered aggravated as a whole. The minimum penalty is four months of imprisonment and the maximum is four years of imprisonment.

A new section 4 a regarding aggravated concealing of poached game was included in the Penal Code. The criminal sanction of an aggravated concealing of poached game is fine or a maximum of three years of imprisonment. The maximum punishment for a customary concealing of poached game was raised from the current six months to one year of imprisonment. Concealing of poached game encompasses, among other things, transporting, supplying or selling game. Prohibition of hunting is always imposed on a person convicted of concealing of poached game unless there are particularly cogent reasons to leave it unimposed. The length of a prohibition of hunting as a consequence of an aggravated offence is three years at minimum and ten years at maximum.

Actions violating sections regarding animal welfare offences of Chapter 17 of the Penal Code are considered environmental crimes, or at least falling to the scope of key prosecutors of environmental offences. Regulations regarding animal welfare crimes were revised by a law that became effective on 1<sup>st</sup> of March, 2011. Its most significant reform is

the introduction of section 14 a considering aggravated animal welfare crime. An animal welfare offence is considered aggravated if the offence is committed in a particularly cruel or ruthless way or if the offence is aimed at a significantly large number of animals or if considerable financial benefits are pursued. Furthermore, the offence has to be considered aggravated as a whole. At minimum, the penalty is four months of imprisonment and four years at maximum. Additionally, a prohibition of keeping animals is imposed on the sentenced person. However, the court of justice may leave the prohibition unimposed if there are particularly cogent reasons for it. Some changes were also made to the prohibition details, and the register for prohibition of keeping animals was adjusted.

The new waste tax law became effective on 01 January, 2011. A central aim of the new waste tax law is to expand the taxation range: the waste tax level was raised from the previous 30 euros to 40 euros per a tonne of waste being delivered to a dumping area after the beginning of 2011 and 50 euros per a tonne of waste being delivered from the year 2013. The waste tax was changed to include all the waste delivered to dumping areas, the recycling of which is technically and environmentally possible. Both public and private dumping areas are included in the taxation range.

The regulations concerning waste tax liability have been clarified. The party liable to pay waste tax is still the manager of the dumping area, and the tax is still only directed at processing of waste in dumping areas: other waste processing, such as incineration or processing at a hazardous waste disposal plants, is left outside the area of application of the law. Furthermore, a temporary waste storage site functioning for less than three years, landfills and composting sites or other waste recovery areas are not considered dumping areas, provided that the area in question is clearly distinguishable from such. Regarding the beginning of tax liability, it is essential to define when a waste disposal location is considered an operational dumping area. The manager of the dumping area is defined as the party responsible for the dumping area at a given time. The manager is the holder of the environmental permit, or if applying for the environmental permit has been neglected, the person liable to apply for it. The disposal of waste to nature that is not dumping area activity subject to the environmental permit does not automatically generate liability to pay waste tax.

The National Board of Customs is still responsible for monitoring and carrying out waste tax assessment. Before starting dumping area activity, the manager of the dumping area has to prepare a written declaration to a customs authority in order to register the tax liability.

### **3.5 Special period of limitation of environmental offences**

According to the Penal Code of Finland, an offence falls under the statute of limitations in 10 years, if the length of the maximum punishment is more than two years of imprisonment at minimum and eight years at maximum.

An offence falls under statute of limitations in five years, if the length of the maximum penalty is more than a year of imprisonment and two years at maximum.

The maximum punishment for an environmental offence is two years of imprisonment, but a special period of limitation of 10 years considering environmental offences is defined in chapter 8 of the Penal Code.

For instance, the National Bureau of Investigation launched pre-trial investigation in a case of illegal dumping of construction site demolition waste that took place in Uusimaa in 2008, the latest action of which was specified in the investigation to have taken place in 2002.

Because the offence was not considered to be aggravated in terms of environmental crime, the suspected offence would have been barred by the statute of limitations already during the registration of pre-trial investigation because of the restrictions of the regular period of limitation.

If an offence is barred by the statute of limitations, pre-trial investigation cannot be executed and no punishment can be imposed for the offence.

Due to the special ten-year period of limitation of environmental offences, it was possible to carry out the pre-trial investigation and to bring the case to consideration of charges. The hearing of the case will take place in spring 2011.

Additionally, as a consequence of precautionary measures used in the pre-trial investigation, assets of the suspect worth of 200,000 euros were confiscated for security. The confiscation for security in question was ordered to be used to cover the expenses in restoration the place of the environmental offence and to compensate the other caused damages.

## **4 Supervision**

### **4.1 Environmental legislation**

The Centre for Economic Development, Transport and the Environment (ELY Centres) and the municipal environment authorities are chiefly responsible for monitoring the environmental laws in Finland, and their competence in monitoring-related matters is partly overlapping. Additionally, the Environmental Administration of Finland has some monitoring duties.

If supervising authorities detect illegal environmental circumstances, they are obliged to take actions in order to restore the legitimacy of the circumstances. The supervising authorities operate in accordance with the regulations of the administrative law and the supervised law in question. Possible means in proceeding with the supervisory actions are, among others, request for clarification, inspection (inspection record with possible requests), request and administrative compulsion order.

The responsibilities of the Centre for Economic Development, Transport and the Environment include supervisory and licence-related duties in the area of Environment Protection Act, Nature Protection Act, Water Act and Waste Act. The general responsibilities of the Centres are improving environment protection, attending to the public interest in environment and water-related matters and to act as a complainant or responding to the claims in courts of justice and other authorities. The duties are regulated in the law concerning environmental administration. According to the Water Act and the Environment Protection Act, the Regional Environment Centres are eligible to act as complainants in environmental offences, if the public interest has been violated.

Essential permitting and supervision duties lie with the municipalities following the Environmental Protection Act and related special legislation. In a municipality, an environmental protection authority (often, an environmental protection committee) appointed by the municipal council is responsible for the above duties.

The Finnish Environment Institute acts as the permitting and supervisory authority in matters related to international shipment of wastes and carries out duties relating to environmental protection following the Chemical Act. In addition, the Finnish Environment Institute is in charge of issuing permits referred to in the CITES Convention and the Act on Protection of Whales and Seals. It is also responsible for monitoring illegal oil discharges and for the fight against environmental damages.

The Ministry of Environment directs and develops the carrying out of tasks compliant to different Acts. The Ministry may provide the supervisory authorities with detailed regulations by the virtue of the new Act on Protection of the Environment. The Finnish Environment Institute has provided the regional environment centres with a new regulation on organising monitoring of permits. The regulation came into force on 25 November 2005.

## **4.2 Border Guard Service**

In addition to its other statutory duties, the Border Guard Service is a competent authority to carry out pre-trial investigation into environmental offences and natural resources offences. The Border Guard Service is responsible for monitoring compliance with the Hunting Act (615/1993), Fishing Act (286/1982), Nature Conservation Act (1096/1996), Environmental Protection Act (86/2000), Antiquities Act (295/1963) and Act on the Prevention of Pollution from Ships (300/1979).

The Border Guard Service have carried out pre-trial investigation in practice mainly into natural resources offences and more specifically, into hunting and fishing offences, as well as into acts deemed to be violations of the above mentioned substantive Acts the supervision of which is the responsibility of the Border Guard Service. Compared to the previous years, the number of environmental and natural resources offences into which the Border Guard conducted pre-trial investigation has increased steadily. The total number of environmental offences or violations that were given to the Border Guard Service to investigate in 2009 was 219 and in 2010 the number was 243.

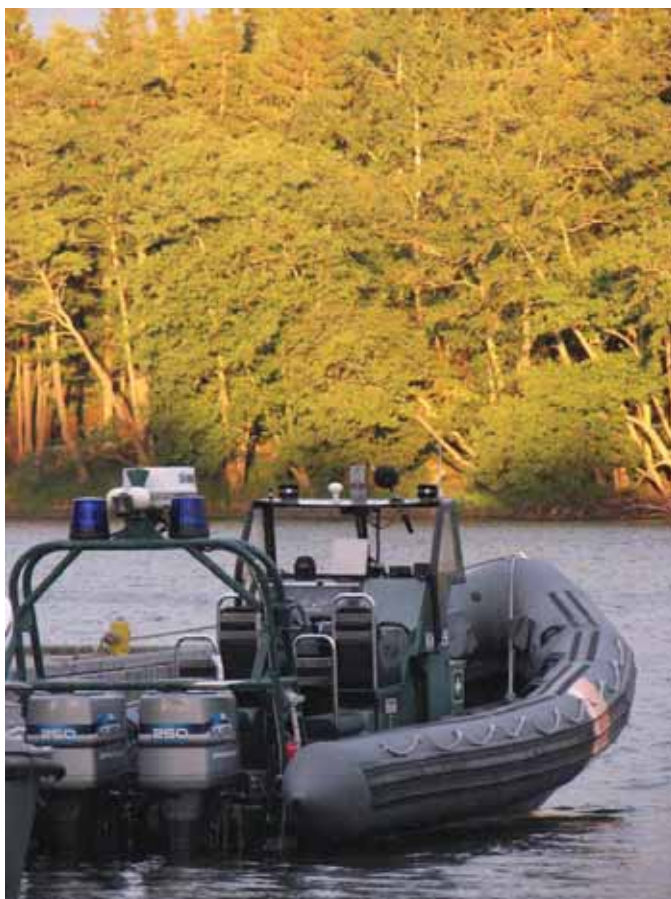
Offences investigated by the Border Guard Service are typically offences revealed in the context of border control carried out outside border crossing points. The Border Guard are well placed to carry out environmental monitoring, since they perform ground, maritime and air surveillance and they have the appropriate equipment to carry out the tasks. Environmental offences are also reported to the Border Guard Service by third parties.

The Border Guard Service's threshold for intervening in environmental offences is low. The Border Guard intervenes in all environmental offences which come to their notice and seek to investigate cases which fall within their own competence themselves. Offences which come to the Border Guard Service's notice but which are not within their competence are reported to a competent pre-trial investigation authority.

On the basis of section 2(2) of the Border Guard Act (687/2009) regarding co-operation between the Border Guard Service, the police and the Customs, the Border Guard Service may also institute measures to ensure the prevention and investigation of offences, if the offence is not minor and the measures cannot be postponed. A competent pre-trial investigation authority is informed about the measures without needless delay. The law regarding co-operation between the aforementioned pre-trial investigation authorities is used to secure the promptness of authority operations and the effective execution of the statutory duties of authorities. Additionally, the Border Guard Service and the police have formed joint investigation teams, in particular to improve the investigation of hunting offences.

The Border Guard Service also participates in particular in monitoring oil discharges and other environmental damages as well as participating in prevention of oil damages during accident situations. The aim of monitoring oil discharges in the Finnish territorial waters is to stop unlawful activities, to start pollution response measures, and to ensure that an investigation concerning an administrative penalty fee and a pre-trial investigation into the matter are carried out. The helicopters and Dornier planes of the Border Guard Service make daily patrol flights over the Finnish territorial waters and economic zone. Additionally, the flight surveillance has been adjusted together with the authorities of Sweden and Estonia, and the surveillance is also carried out partly in the territorial waters of the aforementioned countries.

The Dornier planes are fitted with special equipment suited for monitoring oil discharges. The environmental surveillance equipment of the surveillance planes of the Border Guard Service were renewed in 2009, which improved the technical performance of the surveillance equipment from before, and new features such as the possibility to receive the AIS identification signal of ships and satellite data transfer link were added. The observation of environmental damages in helicopter patrols is still based on sensory detection. The monitoring is supported by a satellite surveillance system, the use of which has contributed to the improvement of surveillance.



**Picture 1** (Border Guard Service).

#### **4.3 National Board of Customs**

Environmental protection carried out by the National Board of Customs is connected to the supervision of various restrictions set on import and export, which are governed either by EU regulations or national laws and regulations. These restrictions are based on the

maintaining of public order and security as well as the protection of both human health and the environment. Environmental protection manifests in different ways in the restrictions on import and export. For instance, restrictions on the transportation of waste as well as nuclear and radioactive materials have been introduced for global protection of the environment. The supervision of restrictions on the import and export of substances which contribute to the destruction of the ozone layer is aimed at protecting the ozone layer globally.

### **Control of import, export and transit of protected plants and animals**

Importing, exporting and transiting protected plants and related items referred to in the Decree implementing the CITES Convention (Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 03 March 1973) in Finland are subject to licence. The majority of so-called CITES products imported to the European Union come from third countries. Therefore, the import restrictions protect the environment and biodiversity in these countries. The CITES export restrictions protect the environment within the EU, even though most of the trade in endangered plants and animals is directed from developing countries to developed countries.

In Finland, the National Board of Customs is responsible for supervising that the regulations on international trade in endangered plants and animals pursuant to the CITES Convention are complied with. The low number of seizures of CITES items can be explained by the geographic location of Finland, and the fact that keeping exotic animals as pets is not considered fashionable at the moment.

### **Monitoring of dangerous substances, radioactive transports and hazardous waste**

The National Board of Customs also monitors transports of hazardous waste and international waste (see 5.7.) and due to this it has made special inspections of road shipments of dangerous substances and ADR haulage operations. The National Board of Customs has also taken part in EU/EEA-wide operations arranged to control movements of waste. These operations were organised by the Finnish Environment Institute. In addition, it should be mentioned that the control on the Finnish borders is of top quality in Europe and that the control systems have been further developed significantly in recent years.

### **Collection of waste tax**

As regards environmental protection, the National Board of Customs also plays a significant role in taxation. In accordance with the Waste Tax Act, the Customs collects waste tax on waste taken to dumping areas. Over recent years, cases have been revealed where waste has been dumped at decommissioned or altogether illegal dumping areas with no tax returns made to the Customs. Waste tax issues in such cases, however, have proven to be very challenging: according to interpretations of the waste tax law, illegal dumping areas have not been regarded as dumping areas subject to waste taxation, and tax fraud investigations are consequently excluded. However, it is possible to confiscate the cost savings acquired through illegal actions as crime proceeds (during the environmental crime investigation of the police). The new Waste Tax Act (1126/2010) became effective on 01 of January, 2011, but it is likely that waste taxation of illegal dumping areas is still problematic.



#### **4.4 Control of the use and storage of dangerous chemicals**

The Safety Technology Authority (TUKES) supervises, controls and grants permits for extensive industrial use of hazardous chemicals. TUKES is one of the parties investigating disasters and it gathers information on accidents, damages and dangerous situations to the damage and accident database (VARO). Permits for minor industrial use and storage of chemicals are on the responsibility of the municipal chemical control authorities following the Chemical Act.

#### **4.5 Cooperation between supervisory authorities and observations on efficiency of supervision**

The Centre for Economic Development, Transport and the Environment and the environment protection authorities of municipalities carry out a regular co-operation in monitoring, since they have similar duties which partly overlap. Also section 29 of the Environment Protection Decree requires that the monitoring authorities shall co-operate sufficiently. The co-operation shall however be improved further and the division of labour made clearer. This is especially important for the appropriate allocation of resources.

The environmental authorities, police, border guard service, national board of customs and rescue authorities co-operate in environmental matters on a case-to-case basis. According to the regional environmental authorities the cooperation with the police has become closer and more open. No systematic cooperation is carried out, however. It should be improved bearing in mind the mutual granting of assistance.

### **5 Environmental offences reported to the Finnish authorities**

#### **5.1 Legal procedure in environmental offences**

Not all environmental offences come to the attention of the law enforcement authorities. The more harmful and visible environmental consequences the act has, the more likely it is that the act in question comes to the attention of the police in one way or another. Offences which do not leave external discharges or other concrete traces often go unnoticed. The facility may violate environmental legislation, however, by circumventing the provisions on licences, for example, or by operating the facility in violation of a license, and thus gain financial benefit. Specifically, if environmental offences involve financial benefit alone, they often remain hidden.

The police may get the information in three different ways: 1) An observation made by a police officer, for example in the context of normal policing; 2) An observation reported by another pre-trial or supervisory authority; or 3) An observation reported by a private person or organisation.

As a rule, supervisory authorities are to report to the police criminal activities observed in their own fields of activity. However, reporting is not required in cases where the offence is a petty one and it has not violated any public interest.

The police are to conduct pre-trial investigation in a case reported to it, if there are reasons to suspect that a criminal offence has been committed. The police department of the crime scene usually conducts the pre-trial investigation, but if so required by the nature of the case, the investigation may be transferred to the National Bureau of Investigation (NBI). In

most cases, environmental offences require a prosecutor be pre-notified of the case and take part in the pre-trial investigation. The National Board of Customs and the Border Guard Service also carry out pre-trial investigation into environmental crime cases.

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If the prosecutor decides to press charges, the case will be tried by a local District Court, and due to possible appeal, by the Court of Appeal, and finally in rare cases, by the Supreme Court.

## **5.2 Regional environment centres: supervision measures**

### **Administrative oil discharge fee**

One key duty of the Border Guard Service relating to environmental protection is to participate in monitoring oil discharges from ships and other environmental damages as well as prevention of oil damages in Finland's inner and outer territorial waters and economic zone during accident situations. According to the Act of Seafaring Environmental Protection, the Border Guard Service is the only competent authority to impose an administrative oil discharge fee as a consequence of illegal oil discharges from ships. The regulation of administrative oil discharge fees was extended to apply to the Åland region as well by a recent change in the county law of Åland. The Border Guard Service is responsible for the duties in imposing oil discharge fees in the Åland region as well.

According to the Act of Seafaring Environmental Protection, the Border Guard Service must impose an oil discharge fee on vessels releasing oil or oil-based mixtures into the territorial waters and economic zone of Finland. The fee would not be imposed at all, if it is unreasonable because of the small amount of the discharge and its insignificant effects on the environment. In respect to a vessel in transit on the Finnish economic zone, it is further required that the discharge causes serious damage or that there is a danger of damage. If the party liable to pay the fee shows that imposing the fee would be manifestly unreasonable because of a distress or accident situation or some other similar reason, the fee would not be imposed at all or its amount would be reduced. The volume of the oil discharge fee is determined by the amount of the oil discharge and the gross tonnage of the vessel, in compliance with the fee table regarding the Act of Seafaring Environmental Protection.

Neither establishing who caused the leak onboard the vessel nor intent or negligence of any kind are prerequisites for imposing the oil discharge fee. However, the Border Guard Service has to obtain concrete evidence for the claim that the oil discharge originates from a specific vessel and that the discharge is not a matter of the aforementioned exceptional situations. The Border Guard Service carries out the necessary investigation in order to impose the fee, and oil samples as well as statements regarding the environmental impact of the oil discharge are requested from environmental authorities and the NBI, if necessary. The oil discharge fee procedure of The Border Guard Service has been centralised at the West Finland Coastguard District in Turku that leads the investigation actions in order to impose the oil discharge fee. All units of the Air Patrol Squadron and the Gulf of Finland

Coastguard District will assist the West Finland Coastguard District in the aforementioned investigation actions.



**Picture 2** (Border Guard Service).

### **Criminal sanctions vs. administrative oil discharge fee**

According to the Act of Seafaring Environmental Protection, monitoring of ships and possible pre-trial investigation are the duty of both the police and The Border Guard Service. According to the section 6 of Chapter 12 of the Act of Seafaring Environmental Protection, The Border Guard Service is authorised to monitor the economic area and the territorial waters of Finland. According to the section 8, the police is authorised to monitor the inland water areas and the territorial waters of Finland.

Until the end of 2010, the police have carried out the actual pre-trial investigation of illegal oil discharges, and The Border Guard Service have assisted the police if necessary. However, The Border Guard Service and the police have been preparing transferring of pre-trial investigation responsibilities exclusively to The Border Guard Service during the latest years. The memorandum of mutual understanding between The Border Guard Service and the police was signed in late 2010, and the pre-trial investigation responsibilities of oil discharge cases were transferred from the police to The Border Guard Service in

compliance with the memorandum from the beginning on 2011. According to the memorandum, the police will still carry out the pre-trial investigation of oil discharges in the inland water areas and in cases where the quality or the extent of the pre-trial investigation actions require it or if the police request that the pre-trial investigation should be transferred to them because of e.g. connections to other serious offences.

The penal system is primary in relation to the administrative oil discharge fee. In a case where a court has issued a sentence in respect to illegal oil discharge in the sea (where the offence might be e.g. impairment of the environment), no administrative oil discharge fee may be imposed to the same party. Similarly, an administrative oil discharge fee imposed to a party before giving a criminal sentence must be removed as a petition matter. So far, imposed administrative oil discharge fees have not been removed.

### **Detected oil discharges and imposed administrative oil discharge fees**

In addition to the inner and outer territorial waters and the economic zone of Finland, the monitoring of oil discharges carried out by the Border Guard Service also extends to the territorial waters of Estonia in the Gulf of Finland and the territorial waters of Sweden in the Gulf of Bothnia. The oil discharges observed directly during monitoring actions in the economic zone and the sea areas can be effectively proven, and the administrative oil discharge fee can be imposed on the party responsible for the oil discharge.

During 2009, The Border Guard Service detected 100 cases of possible oil discharges in sea areas, 61 of which were proven to be oil-based discharges. The Border Guard Service received a significant amount of the aforementioned oil discharge detections from other authorities and private persons. The majority of oil discharges detected by others than The Border Guard Service were located near the coastline, and they usually originated from a small quantity of oil having been released to the sea by accident. One of the largest oil discharges so far, sized from 4.5 to 5.0 cubic metres, was detected in the Finnish Archipelago, and an administrative oil discharge fee was also imposed to the responsible party.

The Border Guard Service conducted an administrative oil discharge fee investigation in 4 cases in 2009. 9 investigations were completed, 5 of which led to imposing an administrative oil discharge fee. Two complaints regarding oil discharge fees imposed by the Border Guard Service in 2007 and 2009 were pending in the Maritime Court of the District Court of Helsinki. The other complaint was withdrawn, and the hearing of the other complaint in the Maritime Court is still in process. The pending complaint concerns the largest imposed administrative oil discharge fee so far - a fee of 22,588 euros because of an oil release in the Finnish Archipelago.

The Court of Appeal of Helsinki gave the first superior court level decision regarding a complaint considering an administrative oil discharge fee in April, 2009. The Court of Appeal did not change the decision given by the Maritime Court in 2008 but retained the imposed penalty fee in all respects. The aforementioned decision of the Court of Appeal became the legally final judgement.

The Border Guard Service was informed of 95 possible oil discharges in 2010, 65 of which were confirmed as oil-based discharges. The majority of the discharges were minor in volume, and they were located in the Archipelago or at harbours. A total of 8 oil discharges were detected in the regional waters and in the economic zone. Additionally, the volume of discharges in sea areas has remained low in 2010. 6 administrative investigations concerning prerequisites for imposing an administrative oil discharge fee were started in 2010, five of which were finished and one of which is still in process in 2011. Two complaints regarding oil discharge fees imposed by the Border Guard Service in 2009 and

2010 were pending in the Maritime Court at the District Court of Helsinki. The hearing of the aforementioned cases will continue in 2011.

### **Efficiency of the oil discharge fee system**

The legislation concerning the administrative oil discharge fee entered into force on 1<sup>st</sup> of April, 2006. The regulations concerning oil discharge fees were basically left unchanged in the Act of Seafaring Environmental Protection, which entered into force in the beginning of 2010 in conjunction with the overall structural reform of the legislation concerning pollution from vessels. However, the right for continued appeal against the decisions of the Maritime Court and The Court of Appeal in cases concerning oil discharge fees, which was enacted in order to secure the uniformity of legal praxis of The Border Guard Service, can be considered a significant reform. Additionally, the change in the Provincial Law of Åland with which the legal provisions concerning the administrative oil discharge fee were extended apply to the Åland region as well after the beginning of 2010, can be considered another significant reform.

Experiences from the environmental protection system utilising administrative oil discharge fees have been very positive. The aim of the regulation has been to improve the compliance with the ban of discharging oil-based mixtures and its overall effectiveness. As a financial sanction, the administrative oil discharge fee has been estimated to be the most central factor contributing to the preventive effect of the regulation. Even though the number of detected oil discharges by The Border Guard Service has remained at a high level in recent years, the total volume of detected oil discharges in the economic zone and the territorial waters of Finland has started to decrease. This change has been facilitated by improved monitoring of oil discharges from ships and the implementation of the administrative penalty fee system.

Establishing parties liable for oil discharges in Finland's busy territorial waters and economic zone and gathering sufficient evidence in order for administrative penalty fees to be imposed have proven more challenging than expected. In an ideal case the perpetrator is caught red-handed. However, even in some of these cases the administrative penalty fee imposed by the Border Guard Service has been challenged and the case has been taken to the Maritime Court at the Helsinki District Court.

The administrative penalty fee is a much more effective financial sanction than a fine. The amount of the fee imposed by the Border Guard Service in individual cases has varied from 4,278 euros to 22,588 euros. The fees defined in the oil discharge fee table have not been changed in the new Act of Seafaring Environmental Protection. According to The Border Guard Service's point of view, the fees in euros defined in the table for administrative oil discharge fees that have been left unchanged since the introduction of the system should be raised particularly in order to improve the preventative effect.

### **5.3 Police: reported cases of environmental offences**

Penal provisions on environmental offences that may lead to imprisonment are collected to the Penal Code. There are more lenient penal provisions, however, included in several other laws. It has an effect on monitoring environmental crime as well on assessing which offences are to be considered as environmental offences. Several acts related to environmental matters in one way or another are penalised by law. Covering comprehensively all such offences related to the environment is relatively difficult.

As in previous reports, environmental offences reported to the police are presented in this report on the basis of the violated Act. Data has been collected with the help of a police data system PolStat indicating the situation on 7 January 2009. Minor corrections have also been made to the 2007 figures. All the above mentioned Acts are also available on the website [www.finlex.fi](http://www.finlex.fi) (some with translations into English).

It should be emphasised that the statistics compiled by the police are based on the titles given to each criminal act in the course of pre-trial investigation. The title of the case may change when the case is referred to the prosecution from the police and again, in the court procedure. The statistics reflect mainly the demand for investigation, but they tell hardly anything about the state of the environment or threats posed to the environment.

## Penal Code

Penal provisions on environmental offences are included in Chapter 48 of the Penal Code. The offences are: *impairment of the environment*, *aggravated impairment of the environment*, *environmental infraction*, *negligent impairment of the environment*, *nature conservation offence* and *building protection offence*. The minimum punishment for the offences is a fine and the maximum punishment is imprisonment from six months to six years. The minimum punishment in cases of aggravated impairment of the environment is imprisonment for four months.

Environmental offences against the Penal Code	2003	2004	2005	2006	2007	2008	2009	2010
Impairment of the environment Ch. 48(1)	159	138	131	148	148	194	189	181
Aggravated impairment of the environment RL 48(2)	2	2	1	2	2	5	11	7
Environmental infraction Ch. 48(3)	235	283	258	206	239	240	241	210
Negligent impairment of the environment Ch. 48(4)	13	5	2	6	6	6	8	6
Nature conservation offence Ch. 48(5)	41	69	34	35	53	59	60	52
Building conservation offence Ch. 48(6)	1	3	3	1	1	1	6	4
<b>Total</b>	<b>451</b>	<b>500</b>	<b>429</b>	<b>398</b>	<b>449</b>	<b>505</b>	<b>515</b>	<b>460</b>

**Table 1** Environmental offences against the Penal Code filed by the police in 2002 - 2010.

The main part of environmental offences against the Penal Code reported to the police was classified as impairment of the environment and environmental infractions. It is a question of impairment of the environment when a person deliberately or through gross negligence introduces, emits or disposes into the environment an object or a substance so that the act is conducive to causing a danger of the spoiling or littering of the environment or a health hazard. If the impairment of the environment is minor when assessed as a whole, it is a question of an environmental infraction.

18 cases of aggravated impairment of the environment entered in the Data System for Police Matters during 2009 and 2010, the basic information of which can be presented in this public report:

### The 11 cases of aggravated impairment of the environment filed by the police in 2009:

1. A municipal environmental supervisor informed the police of a substantial waste dumping area located in a class 1 groundwater area.
2. A municipal environment secretary informed the police of waste and other material possibly buried in a gravel extraction site located in a groundwater area.

3. A resident of a municipality filed a request of investigation to the police for a suspected environmental offence. The case was originally filed as an aggravated impairment of the environment, but the criminal offence was later reduced to impairment of the environment.
4. Based on a request of investigation by the environmental administration of Finland, the police carried out pre-trial investigation of a suspected aggravated impairment of the environment concerning the operation of an industrial establishment and its environmental emissions.
5. The police started pre-trial investigation of a case in which an estimated amount of 100,000 litres of a mixture of water and heavy fuel oil had leaked into the ground from the pipe system/valves of a production plant.
6. A pre-trial investigation process was started on the grounds of an authority report which concerned a case of suspected disposal of construction site demolishing waste into the ground.
7. Environmental authorities requested an investigation of a case concerning dumping of construction site waste containing e.g. asbestos to the land and sea areas of a property. The pre-trial investigation revealed that the suspected offence had taken place more than 10 years ago and was therefore barred under the statute of limitations. The case was moved to administrative procedure.
8. A waterworks informed the police of a large amount of unknown foaming liquid in a groundwater infiltration pool. However, the investigation revealed that the foaming liquid was harmless rinse water of the pipe system released into the pool by a subcontractor of the waterworks. Therefore, no environmental offence was committed.
9. Environmental inspectors discovered that all the sewage water from the toilets, showers and the kitchen of a property used for accommodation and restaurant services had been released unrefined to the ground and from there into a nearby water system.
10. A municipal environment office requested an investigation concerning dumping of various types of waste (including asbestos-bearing waste) to the ground.
11. The environmental authorities of a municipality informed the police of a suspected further processing of root vegetables in a property area, which was not authorised with an environmental permit. Consequently, the peeling waste and sewage originating from the peeling process were released to the soil.

The 7 cases of aggravated impairment of the environment filed by the police in 2010:

- 1) The police started pre-investigation of a case concerning an oil leakage to a water system originating from a rainwater sewer of an industrial establishment.
- 2) A municipal environment office informed the police of extensive illegal incineration of various types of demolishing site waste in a property area.
- 3) The police have filed a report of a suspected aggravated impairment of the environment revealed during the investigation of another environmental offence. The case concerns waste oil treatment.

- 4) A municipal environment inspector has requested the police to investigate a case regarding dumping of demolishing site waste and other waste to various property land areas. The case is connected to another aggravated impairment of the environment, which is in the pre-trial investigation of the same police district.
- 5) The police started pre-investigation of an aggravated impairment of the environment of a case concerning over-flooding of a waste oil tank in a car repair shop. The oil had flooded into a nearby ditch, then to the ground and then towards a water system.
- 6) The police have filed an offence report regarding unauthorised transporting and dumping of various types of waste, including concrete demolishing site waste, to a land area owned by a landwork contracting company.
- 7) A citizen has informed the police of a case concerning release of a hazardous substance to the soil. The case was originally filed as an aggravated impairment of the environment, but the criminal offence was later reduced to impairment of the environment in the pre-trial investigation.

The fact that pre-trial investigations of most aggravated environmental offences were started on the basis of reports and requests for investigation of regional environmental authorities can be noted by examining the criminal offence report system of the police. Furthermore, it is a very positive indicator of the improvement in the co-operation and dialogue between environmental authorities and the police to even more positive direction.

Considering the number of statistically compiled environmental offences and especially the number aggravated environmental offences, strengthening the criminal liability of committers of environmental offences, however, requires even smoother co-operation.

The PolStat also includes statistical data on abandoning vehicles in the environment. The number of these vehicles has been in a steep decrease since new provisions and procedures for recycling second-hand vehicles were implemented. The number of wrecked cars abandoned in the environment has dropped drastically in the last few years.

	2003	2004	2005	2006	2007	2008	2009	2010
Vehicles abandoned in the environment	166	151	72	32	29	18	2	0

**Table 2** Vehicles abandoned in the environment in 2002–2008.

Penal provisions on natural resources offences are set out in Chapter 48a of the Penal Code. Natural resources offences include a *hunting offence*, *fishing offence*, *forestry offence* and *concealing poached game*. The Chapter also includes a provision on a hunting prohibition that may be ordered for at least one and at most five years. However, there is no statistical data available on the number of ordered hunting prohibition as it is a question of criminal sanctions.

<b>Natural resources offences against the Penal Code</b>	2003	2004	2005	2006	2007	2008	2009	2010
Hunting offence Ch. 48a(1)	355	300	251	300	251	252	309	253
Fishing offence Ch. 48a(2)	11	10	9	14	0	13	7	11
Forestry offence Ch. 48a(3)	9	9	9	6	4	6	6	7
Concealing poached game Ch. 48a(4)	7	3	3	13	2	4	4	5
<b>Total</b>	<b>382</b>	<b>322</b>	<b>272</b>	<b>333</b>	<b>257</b>	<b>275</b>	<b>326</b>	<b>276</b>

**Table 3** Natural resources offences filed by the police in 2002–2008.



In 2010, over 91 % of all natural resources offences were hunting offences. An offence is classified as a hunting offence when a person deliberately or through gross negligence hunts using methods such as an illegal trap or trapping method, or hunts in violation of provisions or orders given on hunting or when hunting, endangers or harms to a person or the property of another person.

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

<b>Offences endangering health and safety</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Health offence Ch. 44(1)	4	8	7	6	6	3	4	5
Medicine offence Ch. 44(5)	123	205	461	453	548	802	851	898
Genetic technology offence Ch. 44(9)	not in the PolStat system							
Nuclear energy use offence Ch. 44(10)	not in the PolStat system							
Explosives offence Ch. 44(11)	174	142	131	130	116	118	140	133
Careless handling Ch. 44(12)	334	374	373	527	483	439	436	423
Transport of dangerous substances offence Ch. 44:13	15	21	18	17	19	11	12	34
<b>Total</b>	<b>650</b>	<b>750</b>	<b>990</b>	<b>1133</b>	<b>1172</b>	<b>1373</b>	<b>1443</b>	<b>1493</b>

**Table 4** Offences endangering health and safety provided for in Chapter 44 of the Penal Code and filed by the police in 2003 – 2010.

A health offence may be committed by a person who deliberately or through gross negligence in violation of the Pesticide Act, Product Safety Act, Chemical Act, Health Protection Act, Foodstuffs Act or Act on Hygiene of Foodstuffs Derived from Animals produces, handles, imports or deliberately attempts to import, keeps in his/her possession, store, transports, keeps for sale, conveys or gives goods or substances so that the act is conducive to endangering the life or health of another. The punishment ranges from a fine to imprisonment for at most six months. A medicine offence is similar to a health offence, but the penal scale is more severe ranging from a fine to imprisonment for at most one year.

So far, we have not had any cases of a genetic technology offence or a nuclear energy use offence. An explosives offence deals with violating the Explosive Substances Act or a provision or an order in general. The punishment ranges from a fine to imprisonment for at most two years.

Careless handling may be committed by a person who uses, handles or stores a firearm, fire or an explosive substance or product, a chemical dangerous to health or the environment or combustible and explosive, or a radioactive substance so that the act is conducive to causing a danger to the life or health of another or so that it endangers the property of another. The punishment ranges from a fine to imprisonment for at most six months

A person, who deliberately or through gross negligence in violation of the Act on the Transporting of Dangerous Substances transports or drives a dangerous substance so that the action is conducive to endangering the life or health of another or it endangers the property of another may be sentenced for a transport of dangerous substances offence to a fine or to imprisonment for at most two years.

## Water Act

Penal provisions are included in Chapter 13 of the Water Act. Punishable acts are *petty obstructing the flow of water in a channel, permit violation against the Water Act, violation of the maintenance rules provided by the Water Act, violation of the exploit rights provided by the Water Act, violation in floating timber and prevention of the use of the water system.*

<b>Penal provisions of the Water Act, Ch. 13 s. 2-7</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Petty obstructing the flow of water in a channel	2	0	2	0	0	1	0	0
Permit violation against the Water Act	4	3	6	5	7	4	6	3
Violation of the maintenance rules	1	0	0	0	2	0	0	0
Violation of the exploit rights	0	0	0	1	2	1	1	0
Violation in floating timber	0	0	0	0	0	0	0	0
Prevention of the use of the water system	0	0	0	1	0	0	0	0
<b>Total</b>	<b>7</b>	<b>3</b>	<b>8</b>	<b>7</b>	<b>11</b>	<b>6</b>	<b>7</b>	<b>3</b>

**Table 5** Offences against the Water Act filed by the police in 2003 - 2010.

## Other laws

There are about a dozen penal provisions on acts directly or indirectly relating to the environment, all scattered around the legislation. Such provisions are for example section 60 of the Waste Act, section 108 of the Fishing Act, section 25 of the Act on Cross-Country Traffic, section 58 of the Environmental Protection Act, section 17 of the Extractable Land Resources Act and section 7 of the Act on Fishing on the Tornionjoki Fishing Zone. When compared to the number of environmental and natural resources offences provided in the Penal Code, the total number of minor offences is clearly higher.

When any of the penal provisions is examined as such, it is easy to see that many of them do not become topical very often. Such acts are the Chemical Act, the Act on the Protection of Buildings and the Antiquities Act. These penal provisions that are applied very rarely, are not included the following Table.

<b>Other environmental violations</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Violation of the Waste Act	553	372	425	372	386	359	332	349
Violation of the Fishing Act	301	302	299	346	406	462	561	624
Violation of the Act on Cross-Country Traffic	193	285	309	299	299	395	325	313
Violation of the Environmental Protection Act	55	75	55	39	36	44	33	34
Violation of the Extractable Land Resources Act	4	5	3	3	5	1	3	2
Violation of the Act on Fishing on the Tornionjoki Fishing Zone	1	5	5	14	7	7	6	20
<b>Total</b>	<b>1107</b>	<b>1044</b>	<b>1096</b>	<b>1073</b>	<b>1139</b>	<b>1268</b>	<b>1260</b>	<b>1342</b>

**Table 6** Other environmental violations filed by the police in 2002–2008.

## Some observations on the police statistics

The police statistics do not, however, reflect the true state of the environment, but the demand for investigation carried out by the police. It is likely that the offences shown in the statistics have very little to do with environmental issues such as eutrophication and the

quality of air. If we want to be able to identify hidden environmental dangers and future threats, other kind of sources must be used.

In the years 2009 and 2010, the number of environmental offences provided for in Chapter 48 of the Penal Code remained at approximately the same level as in recent years. There were no changes in the number of natural resources offences provided for in Chapter 48(2).

The sharp downward trend in the number of vehicles abandoned in the environment during recent years has continued and there were no cases last year. As already noted in previous reports, this is a good example of how legislative measures can influence trends in a very positive manner, and more efficiently than law enforcement.

Statistical data on offences endangering health and safety, provided for in Chapter 44 of the Penal Code, were introduced in the 2006 report. The most noteworthy change in the figures is the increase in the number of cases of medical offences, which has almost quadrupled in four years.



**Picture 3** Taking samples at an environmental crime scene.

#### **5.4 International and mutual assistance in environmental crime cases**

Of all requests for international legal assistance and police-to-police assistance, international search warrants and other operational correspondence in 2009, the NBI Criminal Intelligence Division filed only 3 (2008:6, 2007:5, 2006:9, and 2005:7) as environmental crime cases. The number is only a fraction of all the international exchange of information between the police and judicial authorities handled by the Division.

The first of the three cases of 2009 considered investigation of an aggravated impairment of the environment in Finland, regarding an oil discharge from a vessel in the harbour of Naantali. The request of legal aid from Sweden concerned interrogations of the ship crew in Sweden. In the second case, the police department of West-Uusimaa (in Vihti) sent an inquiry of the owner of an abandoned car with Swedish number plates to Sweden. The third case concerned an inquiry by the Swedish authorities regarding two citizens of Lebanon being suspected of smuggling hazardous waste from Sweden to Germany. The persons had no contacts to Finland.

In 2010, the NBI Criminal Intelligence Division did not file any cases connected to international legal assistance and police-to-police assistance, international search warrants or other operational correspondence.

It should be mentioned that two international requests for information regarding emissions trading were received in Finland, even though these cases cannot be considered environmental offences. The first inquiry regarded computer hacking attacks to the emissions trading system.

The Environmental Administration of another European country informed other European authorities of increasing number of filed applications regarding international emissions trading and the register of emission permits maintained by the country in question. The persons and enterprises seeking to open new accounts in the register had submitted forged documents to the application. No connections to Finland were found.

## **5.5 National Board of Customs: environmental offences**

### **Nature conservation offences and environmental infractions**

Most of the environmental offences investigated by the Customs are cases of smuggling of CITES items detected in the context of import or transit. Most often it is a question of items that private persons bring from their holiday trips or items that they have ordered abroad.

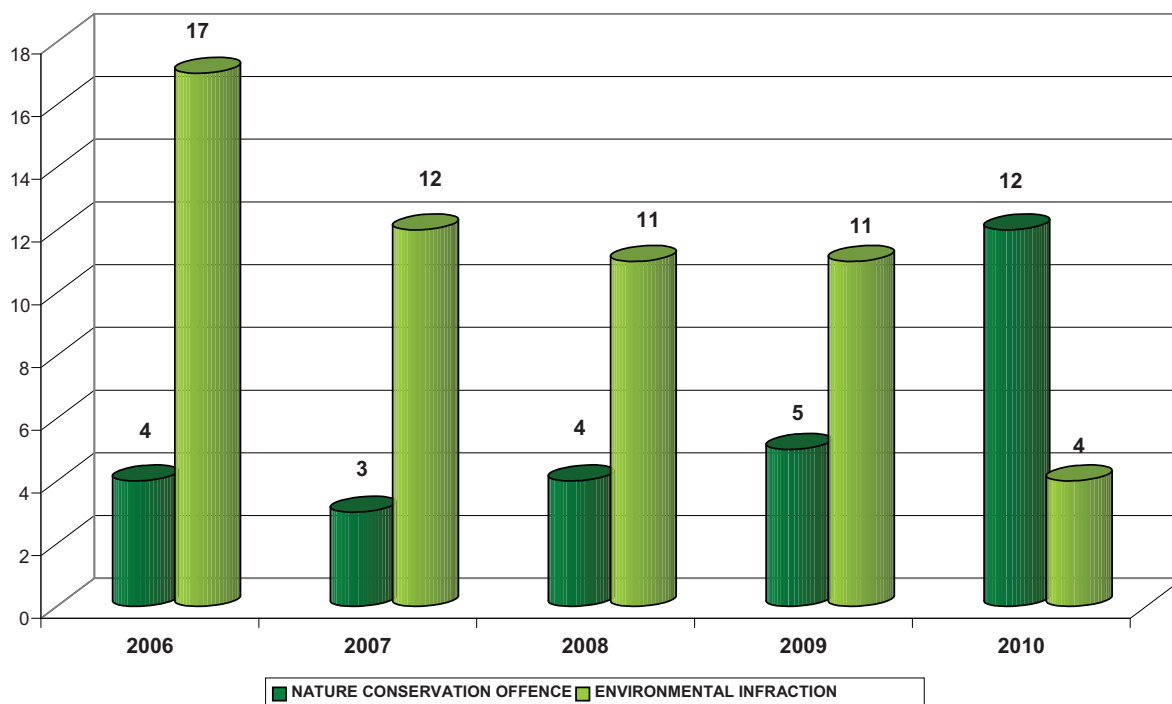
The cases are investigated either as environmental infractions (Nature Conservation Act, s. 58) or environmental offences (Penal Code, c. 48(5)). Punishment for environmental infraction is a fine and for an environmental offence, a fine or imprisonment for at most two years. According to the Nature Conservation Act, s. 59, the offender shall be sentenced to forfeit to the State that which constitutes the object of the offence i.e. a protected plant and the monetary value of a protected plant or animal as a representative of its species shall be forfeited. The Ministry of the Environment shall set standard monetary values for protected animals and plants. The Finnish Environmental Institute serves as the expert authority.

In each year, the customs officers make 1 - 5 CITES seizures leading to a criminal investigation of environmental offences. Between 2000 and 2010, the authorities have investigated in average 10 environmental infractions per year. The cases investigated by the Customs usually involved private persons bringing items referred to in Annex B of the Decree implementing the CITES Convention in Finland, usually a wallet, belt or a watch-strap made of snake skin. Various kinds of corals, shells, plants and parts of plants were also brought into Finland, and shoes and clothes in particular are often ordered from Internet stores. Smuggling of living animals is extremely rare.

The Customs investigated 5 nature conservation offences altogether in 2009. Most cases concerned importing items made from protected animals or plants without appropriate CITES permits. As regards environmental infractions a total of 12 cases were investigated

in 2010, 7 of which concerned an enterprise suspected of importing feather products against the CITES regulations.

#### NATURE CONSERVATION OFFENCES AND ENVIRONMENTAL INFRACTIONS FILED BY THE CUSTOMS IN 2006-2010



**Table 7** Nature conservation offences and environmental infractions filed by the Customs in 2006 – 2010.

#### Customs controlled transports of hazardous and radioactive substances

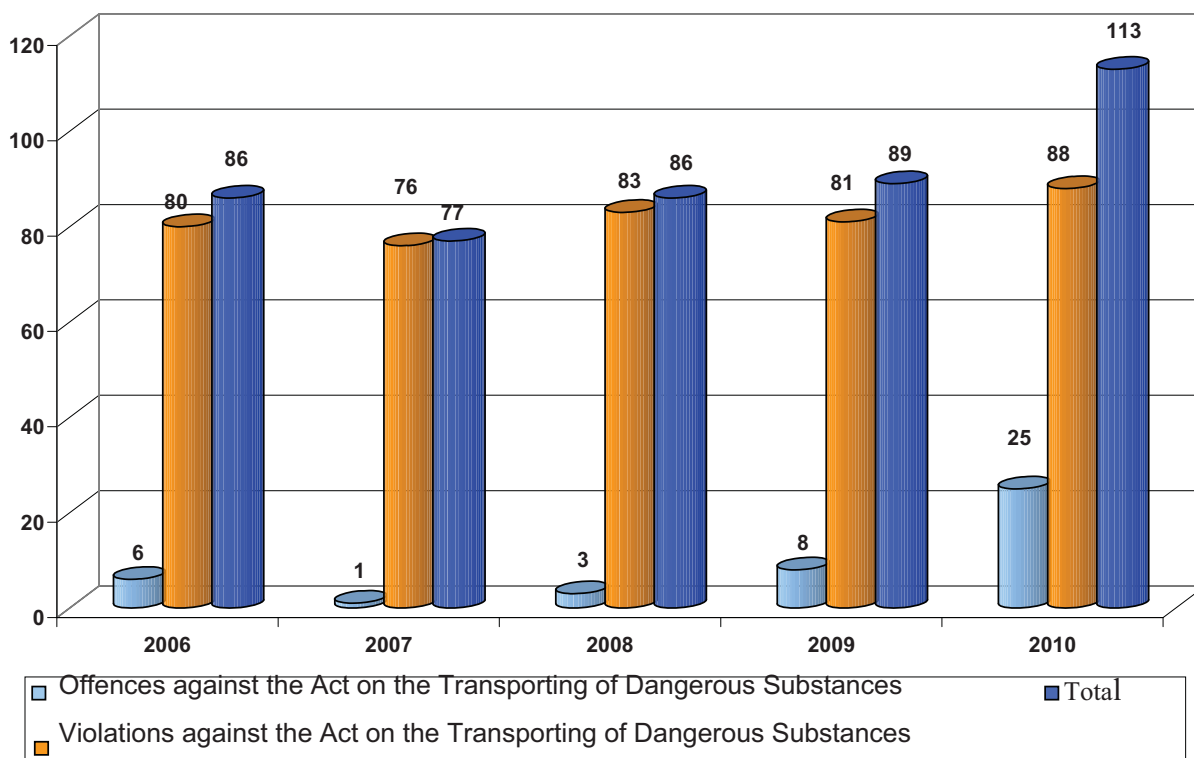
The Customs has a significant role in environmental protection as the authority controlling the shipment of radioactive and hazardous materials. Shipments arriving and leaving Finland are checked by border control staff at the border crossing points as well as mobile border control teams. The purpose of efficient monitoring is to detect the shipments violating the regulations right at the state border.

All of the most important border crossing points of Finland include fixed measuring instruments - in other words, gates for both passenger and freight traffic. The customs officials use manual measuring devices as well. Shipments containing radioactive materials had to be turned back to their countries of origin as recently as in the early 2000's, but there have been no similar cases after that. A few alarms are caused by vehicles at the gates annually, but the amount of radiation has always been so low that locating the radiation source to an object has been impossible. Alarms are caused by e.g. calcium chloride, pottery and fertilisers. So far, no illegal shipments of actual radioactive substances (plutonium, uranium) have been detected.

A steady number of detected violations and offences against the Act on the Transporting of Dangerous Substances have been detected annually. The statistics of 2010 are affected by the so-called battery phenomenon (more below). The majority of the transporting violations have concerned lack of necessary documents to be supplied with the shipment and

insufficient equipment of vehicles such as extinguishers. Particular attention was still paid to the overall condition of the shipments in the basic monitoring of The Customs in 2010, and the total number of inspections has stayed at the level of previous years. It is likely that increased monitoring has had a preventative impact on the number of cases. Additionally, almost all of the vehicle transports causing supervisory operations have been Russian.

Transport offences (hazardous substances) detected by the Customs in 2006 - 2010



**Table 8** Transport offences (hazardous substances) detected by the Customs in 2006 - 2010.

### Battery Phenomenon of 2010

24 cases of illegal transporting of used or damaged lead acid batteries (UN 2794) were detected by the Customs in 2010, 21 of which were investigated as impairment of the environment and transportation offences against the Act on the Transporting of Dangerous Substances. Regarding the exceptional number of cases compared to the previous years, the incidents have been dubbed “a phenomenon” by the Finnish media as well. All of the offences were detected in the Southern Customs District of Finland. Additionally, three cases were investigated as offences against the Act on the Transporting of Dangerous Substances and violations of The Waste Act.

The offenders were citizens of Estonia, Latvia and Lithuania. The batteries had been collected from service stations and collection points for used batteries. The vehicles used for transporting were inspected when they were departing to Tallinn from Helsinki. Most vehicles were delivery vans, but a few private cars and a minibus with removed back seats were used as well.

International transporting of batteries requires a waste transport permit granted by the Environmental Administration of Finland for each country participating in the transporting, and the driver of the vehicle used for this purpose must be accepted as a receiver of used batteries in the so-called waste register. These requirements were not realised in the investigated cases, and the batteries were illegally loaded as well. Some were packed one on the other without bindings or support. Occasionally, corrugated cardboard was added between the layers of batteries, and liquid from the damaged batteries were leaking to the structures of the vehicles as well. Wheel wedges, eye protectors and eye wash liquid, warning signs, safety waistcoats and orange code plates indicating hazardous substances both from front and behind were missing from the vehicle equipment. The drivers had no freight registers, security cards and ADR driving permits. Additionally, they had violated all the regulations affecting maritime safety required by shipping companies.

A total of 36,115 kilograms of batteries were confiscated. The batteries have been delivered to the EKOKEM hazardous waste treatment plant to be disposed. The punishments provided by the Penal Code have been either fine or imprisonment of a maximum of two years.



**Picture 4** An illegal transport confiscated by the Customs.

## **5.6 Environmental offences forwarded to prosecutors and court**

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

Offence	2004	2005	2006	2007	2008	2009	2010
<b>TOTAL</b>	<b>342</b>	<b>392</b>	<b>329</b>	<b>345</b>	<b>312</b>	<b>327</b>	<b>332</b>
IMPAIRMENT OF THE ENVIRONMENT	49	69	46	59	79	59	81
AGGRAVATED IMPAIRMENT OF THE ENVIRONMENT	1	2	1	2	2	2	8
NEGLIGENT IMPAIRMENT OF THE ENVIRONMENT	11	3	1	2	6	3	5
NATURE CONSERVATION OFFENCE	11	18	12	15	21	21	16
BUILDING PROTECTION OFFENCE	1	1	1		2	4	4
HUNTING OFFENCE	93	77	79	95	65	85	101
FISHING OFFENCE	7	5	12	2	2	8	2
FORESTRY OFFENCE	5	7	4	3	3	5	5
CONCEALING POACHED GAME		1					2
VIOLATION OF THE WASTE ACT	19	26	21	29	26	13	22
VIOLATION OF THE ACT ON THE PREVENTION OF POLLUTION FROM SHIPS	1		6	9	7	3	
ENVIRONMENTAL PROTECTION VIOLATION	11	11	9	10	14	16	9
ATTEMPTED NATURE CONSERVATION OFFENCE		1	1				1
BUILDING PROTECTION VIOLATION				1			
HUNTING VIOLATION	62	77	46	40	31	42	45
FISHING VIOLATION	10	11	11	10	11	5	10
FORESTRY VIOLATION	60	77	76	66	38	59	19
VIOLATION OF THE ANTIQUITIES ACT	1	3	2	1	2	2	
VIOLATION OF THE MAINTENANCE RULES PROVIDED BY THE WATER ACT					1		
VIOLATION OF THE RIGHTS TO USE PROVIDED BY THE WATER ACT							1
PERMIT VIOLATION OF THE WATER ACT		3		1	2		1
PETTY OBSTRUCTING THE FLOW OF WATER IN A CHANNEL			1				

**Table 9** Environmental offences of the country received by prosecutors in 2003 –2010.

At the beginning of 2010, 108 environmental offences were under consideration by prosecutors, and 332 new cases were received by prosecutors for consideration as shown above.

Prosecutors decided 3 of the cases by combining them with other cases or by transferring them to another prosecution office and gave a final decision on 327 cases. 100 cases were left to be decided in 2011. Charges were pressed in 188 cases and 33 cases were decided in penal order proceedings. Imputability was established but charges were waived in 23 cases, and in 52 cases charges were waived on procedural grounds. In 38 cases prosecutors decided to limit the pre-trial investigation on the proposition of the pre-trial investigation authority. Other final decisions were given in three cases. Average time for the consideration of charges was 3.3 months, which is clearly less than before.



	Cases			Procedural decisions		type of decision											
	Open at the beginning of the term	Cases received	Total	Consolidated	Transferred	Charge	Penal order	Waiver (imputable)	Waiver (procedural)	Limit inv.	Limit inv. (procedural)	Limit inv. (costs)	Prosecutor's decision	Prosecutor's report	Total		
2007	117	345	462	1	11	145	57	29	54	29	0	0	5	0	319	131	3,6
2008	131	315	446	2	5	160	42	28	52	23	8	5	4	0	322	117	4,6
2009	114	327	441	5	8	137	38	28	73	26	6	4	7	1	320	108	3,87
2010	108	332	440	3	0	188	33	23	52	28	5	5	2	1	337	100	3,33

**Table 10** Environmental offences in the country - Prosecutors' decisions in 2007 –2010

District Courts decided 152 environmental crime cases in 2010. In 69.7 per cent of the cases a sentence was issued in accordance with the charges. Charges were dismissed in full or in part in 32 cases, which amounts to 21.05 per cent. In addition, 14 other decisions were made.

Prosecution office	Convicted as charged	Charge dismissed in full or in part	Charge dropped	Other decision	Transferred	Total
<b>Total</b>	<b>106</b>	<b>32</b>	<b>1</b>	<b>4</b>	<b>9</b>	<b>152</b>

**Office number and name**

607 Helsinki	4	1			1	6
601 Western Uusimaa	6	1			1	8
684 Eastern Uusimaa	2				1	9
618 Kanta-Häme	2	1				5
640 Päijät-Häme	3	1				2
634 Southeast Finland	6	3				2
678 Varsinais-Suomi	6			1	4	15
675 Pirkanmaa	2	1				13
658 Satakunta	4	2				3
680 Ostrobothnia	7	1				12
616 Middle Finland	8	1				7
648 Eastern Finland	19	11				35
655 Oulu	24	7		1	1	44
667 Lapland	13	2	1	2	1	13
690 Åland						0
901 Office of the Prosecutor General						0

**Table 11** Environmental offences – District Court decisions by prosecution office in 2010

The proportion of dismissed cases of environmental and nature resources offences was in excess of 20 %, which is a significantly higher percentage when compared to the total average of 5 % of all other offences. The relatively high proportion of dismissed cases reflects the problematic nature of producing evidence and the complexity of legal questions.

Year	Convicted as charged	Charge dismissed in full or in part	Percentage of dismissed cases	Year
2004	107	32	21,33	
2005	137	37	20,11	
2006	117	31	19,87	
2007	115	26	17,11	
2008	122	29	17,79	
2009	121	16	10,45	153
2010	106	32	21,05	152

**Table 12** Development of the number and proportion of charges dismissed in full or in part.

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

## **6 Investigation into a serious environmental offence enhances cooperation - Pre-trial investigation into the affairs of Lokapojat Oy**

*The following text is written from the perspective of Anne Lappalainen's report "Impacts of detecting and processing a serious environmental crime viewed from angles of various operators" (2010). The report describes the experiences of the police, environmental authorities and the prosecutors in cooperation in the course of pre-trial investigation into the case Lokapojat.*

Only a few cases of serious environmental offences are reported to the police in a year. So routines of investigative practises, maintaining contact networks and the crime preventive effect easily remain almost non-existent, Conclusions of project Lokki show that developing ways of investigating serious environmental offences enhances cooperation between the authorities and brings along experiences of success that in turn make cooperation even easier in the future. Preventive effect is enhanced by actively releasing information to the media during and after the stage of pre-trial investigation as people are openly given information on consequences of environmental crime.

In October 2008, financial magazine Talouselämä assessed that A. Lokapojat Oy was one of the most lucrative companies in Finland. Only a moment later the company got bad press when the police apprehended several persons of the company's management and employees and started the interviews of 150 persons. The management was suspected of aggravated impairing of the environment i.e. of the most serious one of all environmental offences. Lokapojat was suspected of dumping waste from separation of grease, sand and oil in rain water gullies and other forbidden places. Operations were led by the management

and criminal suspicions concerned not only the company's key staff members, but several employees as well. When an environmental offence is connected with the aim to gain financial benefit, offenders may be suspected of financial offences as well. In this case, liable persons in the company were also suspected of an aggravated fraud. The company's employees were suspected e.g. of impairing of the environment as well as of aiding and abetting in an aggravated fraud. The East-Uusimaa Police Department investigated the case over two years and the case was transferred to the prosecutor for consideration of charges in the autumn of 2010.

### **Cooperation between the police and environmental authorities**

Damage caused to the environment serves as the starting point in deciding whether an environmental offence meets the essential elements of an aggravated offence. Environmental authorities are experts who are able to assess the seriousness of the environmental damage. Therefore, it is important to the police to turn to the environmental authorities in the first stages of the process. In an ideal situation, the co-operational structures are in place and functioning before a serious environmental offence has been reported to the authorities. On-going cooperation is also an effective tool in detecting and preventing new environmental offences.

The Uusimaa ELY Centre (Centre for Economic Development, Transport and the Environment) has had a good co-operation with the East Uusimaa Police Department for years. Both the interest of the police authorities and prosecutors in environmental crimes and the active environmental authorities are important for smooth co-operation. The staff of the ELY Centre thinks that that the positive trend started in Porvoo where the local environmental authorities made a great number of requests for investigation which both the police and prosecutors took seriously, and the cases ended in court. They also tell that the Vantaa environmental authorities work in close co-operation with the police. Another factor affecting the smoothness of co-operation is personal contacts made e.g. in seminars: it is easy to contact a person you know. Both the ELY Centre and the East Uusimaa Police Department think that the most important impact of the case Lokapojat was that the co-operation became closer than before.

They also agree on the fact that the environmental offence allegedly committed by Lokapojat was of exceptional nature, great in scale and very laborious. Pre-trial investigation of the case took more than two years. The ELY Centre and police conducted four inspections together. In addition to those, the ELY Centre submitted four different opinions to the East Uusimaa Police Department during the process. Preparing opinions was time-consuming, because several experts had to be consulted and the suspected offence concerned many different locations. Criminal law requires the assessment of the danger of pollution caused by the suspected activity, which is to a certain extent a deviation from the environmental authorities' other tasks. The investigation may be considered as a learning process thanks to which many smaller cases will be easier to investigate. The ELY Centre sees that there should joint training sessions for the police, prosecution authority and environmental authorities arranged annually on a permanent basis. These sessions could focus on examining forms of co-operation in actual cases, roles of the participating authorities and on their possibilities to produce required information. It would be necessary to pay attention on the target audience also.

As the party responsible for conducting pre-trial investigation, it is the natural for the police to take the leading role towards other parties in respect to the cooperation during the pre-trial investigation. In the Lokapojat case, the police was in contact with the ELY Centre requesting their views about the case. The ELY Centre in turn contacted the police if they came up with something relating to the case. Today these two authorities work in close cooperation in the context of which e.g. the ELY Centre may contact the police to ask

whether it would serve the purpose to take some acute case under investigation. Or when the employees of the ELY Centre are going to inspect some place, they may ask the police to come along. Well-functioning cooperation requires commitment from both parties.

### **Cooperation between the police and environmental authorities**

There is a team of two prosecutors of the East Uusimaa District Prosecutor's Office handling the case against Lokapojat. According to the leading prosecutor, the case has been a very exceptional and one of the long-lasting cases in his career. The case has taken time for many reasons: e.g. various expert opinions based on analyses have been found necessary, there are several suspects and a great number of persons interviewed. From the prosecutors' perspective, cooperation especially with the environmental authorities has enhanced as the operations of Lokapojat consisted of not only dumping or disposal of waste as in typical cases of environmental crime. The prosecutor found direct contacts with the expert authority somewhat exceptional, but in this case, necessary. Assessing the case from the perspective of environmental law has been found necessary right from the beginning of the investigation. For example, damage caused to the environment serves as the starting point in deciding whether an environmental offence meets the essential elements of an aggravated offence, but the professional nature or gained profits do not affect the seriousness of the offence in a similar way. Along the investigation, understanding in the ways of damaging the environment and the extent of it has become more thorough. The prosecutor believes that as the party responsible for laborious and legally difficult pre-trial investigation, the police has learned the most from the case Lokapojat.

Provisions on the cooperation between the police and the prosecutor in the course of pre-trial investigation are laid down in the Pre-Trial Investigation Act<sup>1</sup>. In practise, it means that the police inform the prosecutor on launching pre-trial investigation. Cooperation between the police and the prosecutor is of utmost important. The police are in charge of the investigation and conduct it independently whereas the prosecutor knows what kind of evidence is needed for the case to succeed in court. In the case Lokapojat, the importance of close cooperation was recognised right in the beginning of the investigation and the contacts remained close during the whole time. The authorities consulted with each other on legal questions e.g. how to define the seriousness of the offence, taking appropriate samples, who are the persons who should be interviewed, what questions to pose them and what kind of expert opinions should be requested. When the cooperation starts right in the beginning of the investigation, the authorities are able to adjust their views for the common aim. The result is that scarce resources will not be wasted in gratuitous work. In addition to meetings, the police and the prosecutor consulted each other over telephone on a daily basis and even during weekends and holidays whenever it was found necessary. Both the investigator in charge and the prosecutor found the cooperation very useful and effective. The atmosphere was exited, and all parties wanted a thorough investigation of the case. The police and the prosecutors had eight meetings, and representatives of the ELY Centre attended in some of them. The prosecutors were also invited to take part in the inspections held in the facilities of Lokapojat.

According to the leading prosecutor, as a rule, cooperation with the police has been good in all times. When investigation is started with open mind and there is a sincere will to establish what happened, the cooperation will work also on later phases. Also, personal contacts will result in better interaction between the parties.

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<sup>1</sup> Pre-Trial Investigation Act, s 15(1): The police shall inform the prosecutor, of a criminal case that has come to the police for investigation when someone can be suspected of committing an offence.

When the leading prosecutor worked as the key prosecutor (in environmental crimes) in Porvoo, he had approximately one environmental case per year. As the key prosecutors are tasked to advise and consult in matters relating to their expertise, it is quite common that relating criminal cases start to surface. This is true also for Porvoo. Environmental offences are difficult to detect, and they are often committed in relation to other forms of crime, such as financial crime. So joint discussions and training sessions between the prosecutors, police and environmental authorities improve their abilities to detect environmental offences and bring these offences to court. These discussions and training sessions affect also participants' attitudes and help them to view the process from another authority's perspective. For example, the police may need information e.g. on ways to detect environmental offences or on the nature of evidence required for the case to succeed in court. On the other hand, the environmental authorities may need advice on ways to define when the essential elements of an offence are met. They may also need to be told that the prosecutor's decision not to press charges does not mean that the case was investigated for nothing or that sometimes it is not worth to investigate a reported case, but reporting it was important. The prosecutor and the police in turn may benefit from the expertise of the environmental authorities. If joint training is arranged on a regular basis and cases are handed to the same investigators and prosecutors, their mutual cooperation will work even better as they get more experienced. In small places in particular, the word gets around and people become activated to contact e.g. the key prosecutor whether some case may meet the essential elements of an environmental crime.

The leading prosecutor is of the opinion that the case Lokapojat received more media attention than environmental cases in general. He sees that the media attention results in crime preventive effect. Great publicity has activated responsible persons outside the operational scope; e.g. as the case was released to the media, a seminar focusing on environmental matters was organised in the parliament.

### **Case Lokapojat - Aftermath**

Pre-trial investigation into the case Lokapojat took more than two years, and the case has been forwarded to the prosecutor for consideration of charges. From the perspective of the police, the most important impact may be the experience of effective cooperation and new practises. It has also become clear to the police that environmental crime is to be taken seriously. It is necessary for the police to aim to detect environmental crime and to understand how it is linked with financial crime. For example, the case Lokapojat was exposed as a result of the police's own investigations. Coercive measures typically related to financial crime investigations were applied to this case, namely, placing the suspects under a business ban and recovering criminal proceeds. The ability of the police to effectively investigate major cases of environmental crime is based on expertise gained through specialist training and cooperation and sincere intent to solve cases. For example, in addition to the main investigator, the case Lokapojat engaged in the East Uusimaa Police Department two investigators and a secretary. At the time when the witnesses and suspects were interviewed, the investigation engaged 15 persons in total. Prevention of environmental crime and the importance of cooperation between various authorities has become emphasised also on national policies. For example, the Council of State's Decision in Principle on decreasing financial crime and black economy takes a note of environmental crime and requires enhancing of cooperation between the authorities in prevention of financial crime. Also, one of the aims of the National Security Police is prevention of environmental offences.

In the case Lokapojat, it seems that the conducted pre-trial investigation and the related media releases have had certain impact on the society. It is believed that impacts preventing environmental crime will concern even more people as the processing of the case is over and the case is given even wider publicity. The environmental authorities in

particular see that they will be able to take measures only when the court process is over and confidential details of the case become public and thus open for discussion. Regardless of the above, the case Lokapojat has already raised the interest of environmental authorities for developing the monitoring of waste transports. The case served as a concrete example of faults in monitoring waste transports and waste management, which may have resulted in positive attitudes towards overall reform of the waste legislation. Also, HSY Vesi along with the other operators in waste business has had to find out changes in monitoring the reception of waste in waste management stations. Since the beginning of 2000, oil residues in a certain ditch emptying into the sea have caused a lot of work for the Helsinki Rescue Service, but as the case Lokapojat gained publicity, it is estimated that the number of cases involving oil residues in that ditch has decreased by 90%.



**Picture 5** Co-operation of authorities..

## **7 Environmental offences: observations and examples**

### **7.1 Environment Centre of Uusimaa: observations on suspected environmental offences**

Typical cases detected by the Central Finland ELY Centre relating to the Water Act have involved dredging. There have also been some cases of filling in a water area and unauthorised regulation of water level.

Water Act, Ch. 1(30):

*Anyone, who suffers from sludge, shallows or a similar hindrance restricting the use of a water body, shall be entitled without permission and even in someone else's water area to take the necessary action to remove the hindrance so as to improve the condition and usability of the water body provided that this does not result in a change or consequence referred to in sections 12 to 15 or 19 of this Chapter, or performance of the work does not cause substantial harm to the owner of the water area.*

Requests for investigation made to the police have most often concerned the prohibited change or substantial harm caused to the owner of the water area.

Harm caused by dredging is often belittled. In practise even minor actions may cause substantial harm, for example:

- Sediment suspended in the water
- Damage to the biotic communities, or even full destruction
- Damage to the breeding and growth zones of fish, unsuccessful breeding, disturbance to the fish migration
- Disturbance of fishing and crayfishing
- Disturbance of the ecosystem
- Decrease of natural values
- Prevention of recreational use
- Decrease of the value of recreational areas (i.a. scenic harm)
- Eutrophication due to suspension of sediments releasing nutrients into the water
- Suspension of possible environmental toxins released from sediments

The owner of the water area (in case of jointly owned water areas, statutory local fishery associations must be notified in advance on the start of dredging and on the manner of performance in cases where the performance is substantial. Provisions on informing the ELY Centre or municipal environmental authorities are laid down in the Water Decree. According to the Water Decree, section 85a, the ELY Centre must be notified about the matter at least one month before starting the work. The notice must be attached with a report on the area to be dredged, manner of performance and consents given by the neighbours. A permission of the Regional State Administrative Agency must be applied for dredgings with substantial impact. (More information in Finnish; [www.ymparisto.fi/vesikunnostus](http://www.ymparisto.fi/vesikunnostus) ---> rantojen kunnostus---> ilmoitus vesirakennustyöstä)

## **7.2 Examples of environmental offences processed in 2009 - 2010**

### **Transporting dangerous substances**

In 2009, a new phenomenon was discovered in relation to international waste transport. The Customs had observed in the context of monitoring that certain vans were used to collect used batteries in various parts of the country. The suspects came by a ferry from Tallinn to collect batteries with an intention to take them to Latvia, Lithuania or Estonia. The cases were investigated by the police as impairment of environment (Penal Code, Ch. 48(1)) and as transport offence (Penal Code, Ch. 44(13)).

There are more than ten cases detected by this date in the Helsinki area alone. In all cases, the suspects have been foreigners, and summoning them to court has been difficult since they left the country. This is the reason why one case has appeared in court. In order to impose criminal liability, an attention should be paid on cooperation in pre-trial investigation

right when a case like that has been detected and summoning the suspects while they are in the country.

In the case tried by the Helsinki District Court, a defendant had collected batteries in Salo in the spring 2010. He stated in court that his intention was to take the batteries to a recycling centre in Estonia. He considered that if he had left the batteries on farms, the batteries would have impaired nature there. He denied of having been aware that a permit is needed for transporting batteries and that batteries are classified as dangerous substances. He denied also of having been aware of legal provisions on transporting such substances. The district court considered the case substantiated and noted that it is not possible to avoid criminal liability by appealing to unawareness. In January 2011, the Helsinki District Court imposed the defendant 40 day fines for impairment of nature (Penal Code, Ch. 48(1)) and transporting dangerous substances Penal Code, Ch. 44(13)).

### **Storing scrap materials**

The defendant has collected, kept and stored scrap cars, tires, scrap metal, batteries, etc. on in two properties in Porvoo between 1998 and 2008. The environmental authorities had advised the defendant to cease the action, but he did not follow their advice. The defendant was the CEO of the company he owned. The company was engaged in collecting and processing of small motor-driven machines, scrap metal and other scrap materials. An environmental permit (i.e. waste permit) would have been required since 01 March 2000 for one of the properties, but it is more than likely that a permit was such activity would not have been given in any case. A new permit for the other property would have been required since 01 July 2005, because the permit valid until that date would not have covered the whole operations.

The operation had contaminated the soil and groundwater. Samples taken from the property contained oil, and an additive used in petrol was found in the groundwater. The Porvoo District Court ruled that the defendant's operations on both of the properties had been conducive to causing contamination of the environment. The District Court found very blameworthy the fact that the defendant had not applied an appropriate permit to his operations, although he must have been aware of necessity of such permit. The District Court considered that even a substantial fine would be too lenient considering the serious nature of the acts, danger caused to the environment, contamination of the soil and groundwater and general obedience to the law. The defendant was sentenced for two cases of impairment of the environment to conditional imprisonment of six months.

The District Court considered that the defendant had gained from neglecting to lay asphalt on the ground and to acquire an oil trap, and ordered him to pay 10,000 euros as damages to the State. In all, the court forfeited to the State a total of 70,562.50 as financial gain. The case appeared in the Helsinki Court of Appeal in March 2011. The Court of Appeal stayed in the ruling which Porvoo District Court gave in 2009 in force.

### **Shooting a bear**

In September 2008 in Rautjärvi, the defendant shot a protected bear without a hunting permit, because he thought that the animal was a wild boar. He shot the bear from a distance of 52 metres and killed the beast with one shot in the head. According to the charge, the shooting took place when it was dark and under such circumstances that definition of species was not possible. The Lappeenranta District Court considered that a female bear and a male wild boar are similar to size to the extent that the defendant's mistake was to be considered understandable, and that considering the circumstances,



shooting a wrong game animal was not to be considered as heedlessness of the provisions on hunting. The Lappeenranta District Court imposed 30 day fines to the defendant for a hunting violation laid down in the Hunting Act. The meat was sold at auction, and the money was forfeited to the State.

The prosecutor appealed the case to the Kouvola Court of Appeal and demanded that the defendant would be considered guilty of hunting offence and that the imposed number of fines would be raised. The prosecutor also demanded that the rifle with sniper scope used in the commission of the offence would be forfeited to the State, a hunting ban of one year would be issued to the defendant and that he would be ordered to return his hunting card to the game management association

In addition to the persons heard by the district court, the Court of Appeal heard a new witness, who stated that on the basis of reconstruction of the incident, it had been possible for the defendant to identify the species at the moment of shooting. On this basis, the Court of Appeal agreed to the prosecutor's demands and sentenced the defendant for a hunting offence (Penal Code, Ch. 48a(1)). The defendant was to suffer other sanctions, e.g. forfeiture, and he was subjected to a hunting ban. The Court of Appeal considered the number of fines imposed by the District Court adequate. The Court of Appeal gave its ruling in August 2009.

## **8 Sector watch**

### **8.1 Border Guard Service**

Training in detecting environmental offences, such as oil discharges and detecting hunting and fishing offences in the context of border control, has been given in the context of other subjects taught at the Border and Coast Guard Academy. Personnel engaged in crime prevention are trained in conducting pre-trial investigation into environmental and natural resources offences. The Border Guard Service personnel also participate in training sessions and courses dealing with environmental crime arranged by other cooperation authorities, such as the police and the Office of the Prosecutor General.

### **8.2 Police**

Environmental crime is part of financial crime. For the most part, it is also hidden crime. For the most part, it is also hidden crime meaning that more cases are investigated, more cases are detected. Detection has been made easier by cooperation between various authorities and seminars and training sessions organised for the police, prosecutors and environmental authorities.

The number of aggravated environment offences has been examined in the report above, and a summary of each aggravated environment offence registered to pre-trial investigation during 2009 and 2010 has been submitted.

The most significant cases revealed during the latest years - particularly the so-called dumping offences in the metropolitan region demonstrate, however, that uncovering actions in environmental crime prevention would be necessary in Finland as well.

Unlike many other EU countries the Finnish police have no specific investigation unit for environmental offences. The police handle the environmental offences within other pre-trial investigations. The most serious cases are investigated in the regional investigation units, Helsinki Police Department of the National Bureau of Investigation. Courses relating to the investigation of environmental offences are organised every few years.

Due to the administrative reform of the Finnish Police the number of police departments in Finland has decreased significantly. Currently there are 24 local police departments. The police departments have grown in size and they now have more personnel with more diverse professional and educational backgrounds than before. The increased number of police officers with basic training in the investigation of environmental crimes as well as the structural reform of the police departments can both be seen as factors which will also assist the investigation of environmental offences.

### **8.3 National Board of Customs**

There is a network of CITES liaison officers operating within the National Board of Customs. In addition to the above mentioned training, the National Board of Customs will organise meetings for these liaison officers operating in the customs districts regarding new matters, if necessary. When necessary, additional training is also provided for the liaison officers in two-day seminars where the lecturers are CITES experts from the Finnish Environment Institute. The purpose of the training is to give more in-depth information and teach how to identify species.

Regarding transport of dangerous substances, the National Board of Customs has efficiently trained experts in ADR haulage operations at all border crossing points. Training is given as an annual two-day seminar. The seminar focuses on matters dealing with required documentation, moving of the vehicle and required equipment. The purpose is that the participants learn to reliably establish whether it is a question of a transport containing dangerous substances. Training on transporting dangerous substances is provided in the context of the customs officers' basic professional training. In addition, annual training is provided for customs officers in cooperation with the Radiation and Nuclear Safety Authority.

Staff engaged in crime prevention is also trained in matters relating to pre-trial investigation conducted by the Customs into environmental offences. Customs officers also attend courses and other training sessions on environmental crime organised by other partners in cooperation.

### **8.4 Prosecution Authority**

For the purpose of specialisation and in order to ensure comprehensive and equal provision of internal services and cooperation between authorities the Prosecution Authority has set up a system of key prosecutors. The key prosecutor team which prosecutes environmental crimes and natural resources offences consists of two state prosecutors as team leaders and five district prosecutors as key prosecutors. The key prosecutors have geographical service regions and prosecution offices have liaison prosecutors who specialise in environmental crimes and natural resources offences in the region of their office. Animal welfare offences have been added to the field of specialisation recently. The key prosecutors continuously deepen their competence in their mutually agreed upon areas of expertise. They prosecute the most demanding cases within their area of expertise, but most environmental crime cases are decided by local prosecutors, many of whom have also

taken a course in environmental crimes and natural resources offences. The operational scope of prosecutors has been extended to cover natural resources offences (Penal Code, Chapters 48 and 48a).

The key prosecutors have paid particular attention to forfeitures and corporate fines connected to cases of environmental and natural resource offences.

During the years under review, the key prosecutors in environmental crime have had four meetings in average. They have also been trainers in a two-day course on environmental crime and natural resources offences and a day course on legal cases, both courses arranged by the Office of the Prosecutor General. The training has contained concrete criminal cases relating to the environment and natural resources as well as welfare of animals more in-depth than before. In addition, the key prosecutors have given lectures at several training events and seminars related to the sector, for example at an environmental crime seminar in at the Police College in Tampere. In 2009, they have also familiarised themselves with the operations of the Tallinn environmental authority and Tallinn prosecutor, particularly from the point of view of environmental and natural resources offences, and collaborated with national supervisory and pre-trial investigation authorities on various levels as well.

As Finland gained the chairmanship of ENPRO in 2008, the Network of Prosecutors on Environmental Crime in the Baltic Sea Region, one of the key prosecutors in environmental crime has chaired the meetings and the Office of the Prosecutor General has taken care of the meeting arrangements. Most of the Baltic countries attended the two international meeting arranged in Helsinki in 2010. The Finnish delegation comprised two key prosecutors, state prosecutor, departmental secretary and a leading district prosecutor who had formerly led a key prosecutor team and who was appointed a state prosecutor in 2010. During the three years of operation, the team updated two reports and integrated them into a new report called Manual on Prosecuting Environmental Crime in the Baltic Sea Region. The report contains overviews of environmental legislation in each member country introducing respective structures of the legal system, competencies of the environmental authorities, particularly prosecutors, and sanction systems including possibilities to issue cooperate sanctions and impose business bans. The report also has an extensive section on regulations on oil leaks with respective international instruments and information on their ratifications.

## **9 Recommendations and future trends**

A national environmental crime prevention policy should be drafted for all authorities in the area in order to secure the efficiency of the work. The policy should be drafted by an extensive working group of experts set up by the Ministry of the Environment.

The Council of State's Decision in Principle on financial crime prevention policy for the years 2010 and 2011 requires the Ministry of Environment in cooperation with the other related Ministries to draft guidance on reporting environmental crimes, organising cooperation between the authorities in respect to detection and investigation such offences and required training. The Monitoring Work Group considers implementing this requirement important.

In its report of 30 September 2009, the Finnish National Group for Monitoring of Environmental Offences made several recommendations which should be carried out.

## **1 The law enforcement authorities should develop intelligence activities related to environmental crime.**

Environmental crime is part of financial crime. For the most part, it is also hidden crime. Detected cases of environmental crime do not necessarily reflect the true environmental crime situation in Finland. It is obvious that more cases are investigated, more cases are detected. The law enforcement authorities should allocate resources to detect and reveal hidden cases of environmental crime.

## **2 Permit regulations should be more unambiguous.**

Joint training on environmental permit regulations and questions relating to interpreting permit conditions should be arranged to the authorities. Permit regulations should be unambiguous to the adequate extent and to meet demands of various authorities. There should be numerical values for emissions in permit regulations whenever possible. Permit decisions and the grounds for decisions should be developed so that they are as clear and understandable as possible and do not cause any problems of interpretation.

## **3 The threshold in reporting environmental offences should be lowered.**

### **3.1 The environmental authorities should have harmonised instructions to detect environmental offences.**

There are no statistical data available on violations of the environmental legislation detected by the Centre for Economic Development, Transport and the Environment and environmental protection authorities in municipalities. The relatively small number of criminal complaints lodged by the supervisory authorities may be explained by the definition of "obligation to report" that is subject to various interpretations. Other reasons for the small number of criminal reports may be inadequate resources in supervising and the supervisory authorities' awareness of the fact that the reported party will be supervised also in the future.

### **3.2 The environmental authorities should have adequate training in detecting environmental offences and lodging complaints.**

In the context of legislative amendments, special attention should be paid on training the supervisory authorities especially when the aim is to make the threshold in reporting clearer. The themes in training provided to the supervisory authorities are: contents of a criminal report, legislation on environmental offences as well as matters concerning securing evidence and legal questions

## **4 When an environmental offence has been detected, the authorities should have adequate professional skills and equipment to secure evidence.**

The working group recommends that training should be increased, especially that of the investigators of environmental offences. In addition, the pre-trial investigation authorities should be supplied with proper and suitable equipment for technical investigation and taking samples.

## **5 Success in environmental crime investigations should be secured.**

### **5.1 Success in environmental crime investigations should be secured by putting investigators specialised in these cases in charge.**

The investigation of the most serious environmental offences should be given to specially trained investigators working under a skilled investigator in charge. The environmental crime investigation training should be planned and carry out as a part of financial crime investigation programme.

To ensure the overall picture of an environmental offence, the investigation should be carried out by the regional financial crime investigation unit. The overall picture of the environmental offences should also be understood. In order to get it, the crime reports on environmental crime should always be forwarded to Support Unit for Financial Crime Prevention, to be analysed.

### **5.2 Cooperation between the pre-trial investigation authorities and prosecutor should start at the early stages of the investigation.**

When an investigation into an environmental offence is started by the police, they should always report the offence to the prosecutor in accordance with section 15 of the Pre-trial Investigation Act. Cooperation with environmental authorities should also start at the early stages of the investigation. This way it is possible to limit the investigation and focus it on relevant matters. Before launching the pre-trial investigation, the police and the prosecutor should together prepare the said investigation plan and complement it as the investigation progresses. Making of a common investigation plan will ensure the best possible cooperation between the police and the prosecutor and the right conclusion in the matters to be investigated.

### **5.3 Cooperation between the authorities should be functional and pre-planned.**

Effective cooperation between the authorities is a necessary condition for the success in the prevention and investigation of environmental crime. Joint training sessions and seminars will improve the special skills of the supervisory authorities, pre-trial investigation authorities and prosecutors resulting in resources for adequately specified and justified decisions in criminal proceedings. The training should be targeted for the supervisory authorities, prosecution and pre-trial investigation authorities.

In addition to joint training sessions and seminars, cooperation could be carried out on a voluntary basis. For example, when a request for investigation is lodged with the police or when the police start pre-trial investigation, the supervisory authority and the police could go through the material and the case together in order to benefit from the expertise of both parties.

## **6 Proceeds from environmental crime should be more effectively traced and confiscated. Offenders should be banned from business operations more often.**

Attention should be paid to the amount of financial gain acquired by environmental crime and on effective confiscation throughout the whole process of preventing environmental

crime. The working group recommends the parties making requests for investigation to note the financial gain accrued to the offender and other financial consequences of the criminal act. In environmental crime cases, illegal gain does not consist of proceeds in money, but as various (illegal) cost savings.

When an environmental offence is committed in the context of business operations and in respect to violations of permit regulations, the police should always consider whether investigating the prerequisites for imposing a ban from business operations is necessary.

### **7 The Crime Report Index and developing methods to compile statistics should be further developed.**

One of the factors complicating monitoring is that the penal provisions are scattered all over legislation. Where the punishment for an offence may be imprisonment, the penal provisions are included in the Penal Code, but other acts such as the Water Act, Waste Act, Nature Conservation Act, Extractable Land Resources Act and Antiquities Act also contain penal provisions. Total numbers of cases and rough geographical distributions are relatively easy to collect with the help of the new PolStat system. However, each case must be studied separately in case more detailed statistical or qualitative approach is preferred.

The data systems of pre-trial investigation authorities, prosecution authority and the courts are not connected to each other in a way that it would be possible to give sufficient computerised support to the case monitoring. Analysing environmental crime on the basis of statistics compiled by the police and courts requires that significant human resources would be available and that the monitoring should be carried out for a long period of time. Although there are no great or rapid changes to be seen in developing the monitoring environmental offences, the monitoring needs should be taken into account whenever possible and especially when the data systems in the use of the authorities are further developed and reconstructed.

### **8 The content of expert opinions should be made clearer.**

Before concluding the pre-trial investigation the police should ask the local environment centre to give an opinion on the case or otherwise make sure that the actions under investigation have been adequately established in terms of environmental law in the pre-trial investigation. The environmental authority's opinion should show the contents of substantive environmental legislation and the illegal nature of the action in the case at hand as well as the environmental impact in general as well as in particular as regards that case. The environmental authority's expertise may be significant in assessing various avoided costs and possible criminal proceeds.

### **9 The Waste Tax Act should be taken into account and applied in the environmental crime investigation.**

The Waste Tax Act (495/1996) provides that waste taken to a dumping area is subject to tax. The party subject to pay waste tax is the operator of the dumping area. The tax is levied by a customs authority in accordance with the tax return it has received. Over recent years, cases have been revealed where waste has been dumped at decommissioned or altogether illegal dumping areas with no tax returns made to the Customs. According to assessments made by the Customs, in some cases the amount of avoided waste tax alone has added up to millions of euros.

## **10. The financial crime website should be utilised in the cooperation between the authorities.**

The financial crime website is an Extranet service for authorities in financial crime prevention. The purpose of the site is to support operational activities by distributing significant information for financial crime. The web site has e.g. updated versions of financial crime investigator's e-tools (Manual and VIRTAT tool). There are also a bank of model cases with investigation plans and legal praxis, financial crime statistics, reports, publications, training material, contact information and news.

More than 700 persons employed by the police, customs, tax authority, prosecuting authority and Office of the Bankruptcy Ombudsman visit the website daily. The purpose of the site is offer the authorities a channel to exchange information and discuss topical matters. Best practises of criminal investigation and of measures taken by authorities are saved on the site, and instructions and orders given by the authorities are saved there. The Manual for a Financial Crime Investigator contains information on the essential elements of environmental offences, information on the other authorities and their tasks and on the channels used in exchanging information. For example, rules of conduct securing smooth cooperation between the authorities may be saved on the site. The authorities may introduce specific aspects of their operations and explain the requirements these aspects set on mutual cooperation.

For an authority to access the website, it needs to have a cooperation agreement with the ICT Agency. In addition, each individual user is required to have a personal access code and password. The website is administered by the Unit of initial assessment of financial crime reports supported by a steering group consisting of representatives of various authorities.

## **10 Conclusion**

A much-publicised case of aggravated impairment of the environment was brought to light in the metropolitan area, which was connected to the suspected dumping of sewage waste in the ground, ditches and rainwater sewers. In this example, the person engaging in the illegal activities avoids waste management costs and investments in environmental protection, and pollution is only one of the consequences, as the illegal activities may also distort competition by giving the perpetrator better possibilities to make profit out of his business than those, who follow the law.

Regional Environment Centres (ELY Centres) and the municipal environment protection authorities are chiefly responsible for monitoring the environmental laws in Finland. If supervising authorities detect illegal environmental circumstances, they are obliged to take actions in order to restore the legitimacy of the circumstances. The supervising authorities operate in accordance with the regulations of the administrative law and the supervised law in question.

Compared to the previous years, the number of environmental and natural resources offences into which the Border Guard conducted pre-trial investigation has increased steadily. The total number of environmental offences or violations that were given to the Border Guard Service to investigate in 2009 was 219 and in 2010 the number was 243. The Border Guard's threshold for intervening in environmental offences is low. The Border

Guard intervenes in all environmental offences which come to their notice and seek to investigate cases which fall within their own competence themselves.

In addition to the inner and outer territorial waters and the economic zone of Finland, the monitoring of oil discharges carried out by the Border Guard Service also extends to the territorial waters of Estonia in the Gulf of Finland and the territorial waters of Sweden in the Gulf of Bothnia. During 2009, The Border Guard Service detected 100 cases of possible oil discharges in sea areas, 61 of which were proven to be oil-based discharges. One of the largest oil discharges so far, sized from 4,5 to 5 cubic metres, was detected in the Finnish Archipelago, and an administrative oil discharge free was also imposed to the responsible party. The Border Guard Service was informed of 95 possible oil discharges in 2010, 65 of which were confirmed as oil-based discharges. The majority of the discharges were minor in volume, and they were located in the Archipelago or at harbours.

The number of cases considering criminal offences included in the Chapter 48 of the Penal Code (impairment of the environment, aggravated impairment of the environment, environmental infraction, negligent impairment of the environment, nature conservation offence and building protection offence) was 515 in 2009 and 460 in 2010. The number of offences regarding aggravated impairment of the environment or its attempts was 11 in 2009 and 7 in 2010, and the numbers for environmental infractions were 189 and 181, respectively. There were 8 cases of negligent impairment of the environment in 2009 and 6 in 2010. The number of nature protection offences regarding damaging of protected species of trees and birds was 60 in 2009 and 52 in 2010.

After the implementation of the new provisions and procedures for recycling second-hand vehicles, the number of wrecked cars abandoned in the environment has dropped to a fraction of the previous number.

326 cases of natural resource offences provided in the Chapter 48a of the Penal Code (hunting offence, fishing offence, forestry offence and concealing poached game) were reported in 2009 and 276 in 2010, the majority of 95 per cent of which being constituted by hunting offences and forestry offences .

The Customs investigated 5 nature conservation offences altogether in 2009. Most cases concerned importing items made from protected animals or plants without appropriate CITES permits. As regards environmental infractions a total of 12 cases were investigated in 2010, 7 of which concerned an enterprise suspected of importing feather products against the CITES regulations.

The Customs has a significant role in environmental protection as the authority controlling the shipment of radioactive and hazardous materials. A steady number of detected violations and offences against the Act on the Transporting of Dangerous Substances have been detected annually. The statistics of 2010 are affected by the so-called battery phenomenon. 24 cases of illegal transporting of used or damaged lead acid batteries (UN 2794) were detected by the Customs in 2010, 21 of which were investigated as impairment of the environment and transportation offences against the Act on the Transporting of Dangerous Substances.

At the beginning of 2010, 108 environmental offences were under consideration by prosecutors, and 332 new cases were received by prosecutors for consideration as shown above. Prosecutors decided 3 of the cases by combining them with other cases or by transferring them to another prosecution office and gave a final decision on 327 cases. 100 cases were left to be decided in 2011. Charges were pressed in 188 cases and 33 cases were decided in penal order proceedings. Imputability was established but charges were waived in 23 cases, and in 52 cases charges were waived on procedural grounds. In 38



cases prosecutors decided to limit the pre-trial investigation on the proposition of the pre-trial investigation authority. Other final decisions were given in three cases. Average time for the consideration of charges was 3,3 months, which is clearly less than before.

From a national point of view, law enforcement authorities are clearly aware of the dangers relating to environmental offences. The fact that the authorities responsible for the prevention of environmental offences would lack sufficient skills in monitoring, uncovering and investigating environmental offences can be considered a threat regarding environmental crime.

There are clearly less environmental offences filed by the police than in the other Nordic countries. In order to secure the efficiency of crime prevention, a national environmental crime prevention policy should be drafted for all the authorities concerned. The Council of State's Decision in Principle on financial crime prevention policy for the years 2010 and 2011 requires the Ministry of Environment in cooperation with the other related Ministries to draft guidance on reporting environmental crimes, organising cooperation between the authorities in respect to detection and investigation such offences and required training.