MANAGEMENT SUMMARY

The study at issue investigates organized environmental crime in the five Accession Countries Czech Republic, Estonia, Hungary, Lithuania and Poland. The study encompasses:

- a numerical evaluation of cases of organized environmental crime in the Czech Republic, Estonia, Hungary, Lithuania and Poland;

- an analysis of the legal environment concerning organized environmental crime in the Czech Republic, Estonia, Hungary, Lithuania and Poland;

- a review of the enforcement structures concerning organized environmental crime in the Czech Republic, Estonia, Hungary, Lithuania and Poland.

The following sectors are covered

- illegal commercial trade in endangered species and their products;

- illegal pollution, dumping and storage of waste, including transfrontier shipment of hazardous waste;

- illegal commercial trade in ozone depleting substances;

- illegal dumping and shipment of radioactive waste and potentially radioactive material;

- illegal logging and illegal trade in wood and

- illegal fishing.

In the Accession Countries, environmental crime is a comparatively young field of study, as compared to most of the EU Member States. In part, statistics on this area of crime do not begin before the mid-90ies (and often, there is no awareness of these crimes before). Data on organized crime in the environmental sphere do in no way exist in the police statistics of the countries in question. Other contacts, such as customs services, ministries of the environment, courts and state attorneys, do not have further information available (or otherwise, they do not want to provide it). Literature on organized crime in the sphere of environment is only sparsely available. Even NGOs, in many cases valuable sources of first information, have only little material. Insofar, this study is the very first to collect information on these cases systematically.

The assessment of the extent of environmental crime and organised environmental crime depends on the availability of information. Only on the basis of meaningful information on
number and background of crimes as well as comprehensive data on markets for environmental products (e.g. wood or endangered species) and services (e.g. waste disposal) can a reliable statement on the existence of environmental and organised environmental crime be made. In the countries studied there is only little or partly no information available. The availability of information differs from country to country and from issue to issue. An only small number of sources makes it more difficult to compare information, even with respect to reliability.

In Estonia and Lithuania, information gathering was most difficult due to a lack of information sources. The same can be said for Hungary, where information gathering was additionally hampered by non-co-operation by the public authorities.

Some of the environmental crimes seem to be a relatively new problem in the accession countries, which is above all linked to the introduction of fees for waste disposal. When the city of Budapest, e.g., introduced such a fee in 1997, illegal waste dumping was largely unknown. Today a fee of 260 Forint (about 1 Euro) per tonne entices to dispose waste illegally.

A total number of 63 cases of organized environmental crime in the sense of European Commission and Europol definition\(^1\) could be established. Looking at the overall results of the research on organised environmental crime cases the relatively low number of cases compared to other classical segments of organised crime – e.g. drug trafficking and prostitution- is obvious.

There are 32 cases of illegal logging (to be traced back to traditional roots in this well wooded countries as well as poverty crime), 16 cases of illegal waste disposal or transboundary shipment, 10 cases of illegal trade in endangered species, 4 cases of illegal fishing and 1 case of illegal commercial trade in ozone depleting substances. The distribution among countries presents an extremely heterogenous picture. Most cases have been established in the Czech Republic (44 cases). In all other countries under study only a few cases have been identified. Except from Estonia (7 cases) and Lithuania (5 cases), where the small size of the country could be an explanation, the number of identified cases in Hungary (1 case) and Poland (6 cases) is at first glance surprisingly small.

An explanation of these findings might be that – and this also refers back to a study conducted for the European Commission in 2002, on organized environmental crime in the fifteen Member States, - that environmental crime is so-called „control crime“. That is to say that the more advanced the legal framework and societal awareness are, and the more effective and specialized prosecution procedures become, the more cases are uncovered. In the Czech Republic, for example, a large number of cases was discovered (44), whereas in Hungary there was only one. These country analyses express the fact

\(^1\) The definition of organized crime is used in the context of the Annual European Union Organised Crime Situation Report (6204/1/97 ENFOPOL 35 REV 2) DG H II)
that prosecution structures are much more evolved in the Czech Republic, they are much better staffed and technically equipped as well as co-operating comparatively efficiently, whereas in Hungary, these structures are still undeveloped.

Although for Poland, official statistics may indicate that the problem of environmental organized crime does not exist, reality seems to be fairly different. Poland is recognized as a transit country for international organized criminal groups, and became an operational and destination country for Polish and international organized groups. The number of cases in respect to illegal commercial trade in endangered species and their products, dumping and storage of waste and all other sectors covered by the study indicates that organized crime groups may be involved in these activities. Officials from institutions dedicated to fighting environmental crime confirmed this fact informally. However, since 1993 no one was charged with and sentenced for committing environmental crimes in relation with participation in an organized group.

The discrepancy between reality and sentencing practice in courts shows that institutions responsible for preparatory procedure (Police, Prosecutor’s Office) are not fully aware of and prepared for fighting organized environmental crime. In appeal and district prosecutor’s offices, there are no special units or persons exclusively appointed to fighting organized environmental crime.

The analysis of the legal framework and conditions in reference to organized environmental crime in the five countries, the research on the prosecution structures, as well as the case research and the concommittant co-operation of the field researchers with the study-relevant officials, i.e. police, customs and ministries of the environment, shows that it is rather astonishing that there is actually any information on environmental crime as defined by the Europol-criteria in Estonia, Lithuania and Hungary, as this field of criminal activity receives only scant notice by the legal and investigative agencies in these countries.

Even though all five countries had taken some measures for environmental protection before 1989, it was only institutionalized with an appropriate body of law and accompanying public raising of awareness after 1989. Insofar, environmental protection and policy may be seen as a young discipline. In fact, these five countries prove the adage that paper is very patient, whereas the accompanying administrative structures for implementing environmental policy are very weak. It also seems difficult to translate environmental law into everyday practice.

Legal possibilities for fighting environmental crime as organized crime differ from country to country. In the Czech Republic, Hungary and Poland the national organized crime legislation can be applied to all environmental criminal offences, whereas in Estonia possibilities for prosecuting environmental crime as organized crime are rather limited. In Lithuania, environmental crime cannot be prosecuted under the national organized crime legislation. Therefore, the sanctioning practice can also vary within a great range of possibilities.
Besides insufficient market information and the non-awareness of the organized form of environmental crime in the overall legal context of each country, a lack of effective control mechanisms may also be responsible for the small number of cases of organized environmental crime. In none of the countries under study was a specialized enforcement unit for organized environmental crime identified. With the exception of the Czech Republic, where resources seem to be sufficient and co-operation between the authorities is considered to be good, enforcement structures seem to be weak in all countries. The problem of inadequate control mechanisms is not only caused by the non-existence of specialized enforcement structures, but also by a general lack of technical and personnel resources. E.g. if there is no sufficient control equipment at the border guard’s or customs’ disposal, the chance of identifying the smuggling of hazardous waste or endangered species is small. The same can be assumed if there are only a few inspectors responsible for a large geographical area, e.g. in Olsztyn province in Poland, where only one fishery inspector has to control 6,000 hectares of lakes. Corruption among the enforcement bodies, which is often reported, seems also to be a problem regarding inefficiency of enforcement mechanisms.

For all of the five countries, the following statements are true:

**Environmental crime as “poverty crime”**

Worthy of highlighting is the existence of “poverty crime”. Illegal logging and illegal fishing is often caused by poor living conditions. These crimes can be committed just for the purpose of satisfying personal needs (construction material or food) but also on behalf of criminals who employ poor people for committing crimes. E.g. in Poland there are some villages “specialised” in illegal fishing, whereas in other regions of the country, illegal logging has been there for generations and has historical traditions. In Estonia and Lithuania, illegal fishing is attractive in coastal regions where employment opportunities are few.

**Willingness of authorities to disclose information is low**

From the research it can be concluded that the willingness of public authorities to disclose information is low. Initially, in none of the countries of the study were police, customs, public prosecutors or other governmental bodies willing to co-operate and to support the study with information. This hampered the research of cases, however, most difficulties appeared during the analysis of organisation design and working methods of enforcement bodies. The reasons for this are on the one hand a generally low awareness of environmental crime, but on the other hand a continuity of behaviour patterns inherited from the socialist era. Although transparency has been improving since the political changes in 1989/90, enforcement bodies are still not used to providing information to the public. This is especially the case for police, customs and public prosecutors.
In due cause of the case research and the finalisation of this study research staff, contrary to the impression of the limited case number of cases, gathered information during fieldwork, analyses of the legal environment and enforcement bodies and indirect remarks by representatives of national authorities indicate the existence of a by far higher number of cases in reality.

Tanja Fröhlich
September 2003