

The effectiveness of the EU's legislative framework on environmental crime

Insights from a ongoing research project

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The project

- ④ EU-funded research project “European Union Action to Fight Environmental Crime” (EFFACE)
- ④ Objective: Provide recommendations to EU on how to better combat environmental crime
- ④ Interdisciplinary: law, economics, political science, criminology
- ④ 11 partner institutions (ca. 25 researchers); 3,5 years; ends March 2016

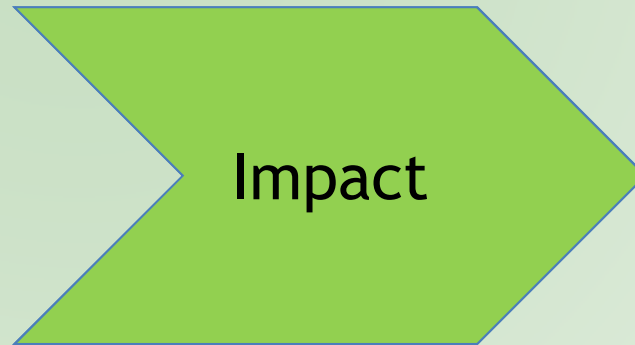
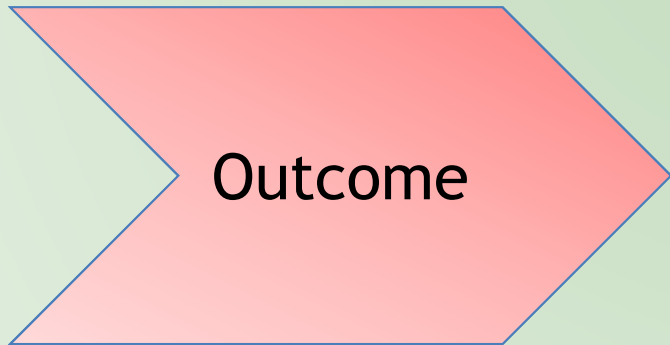
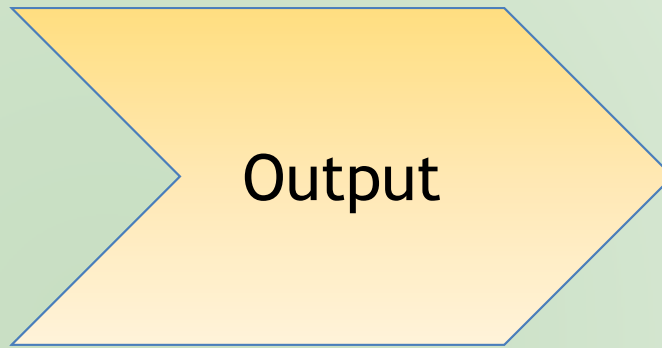
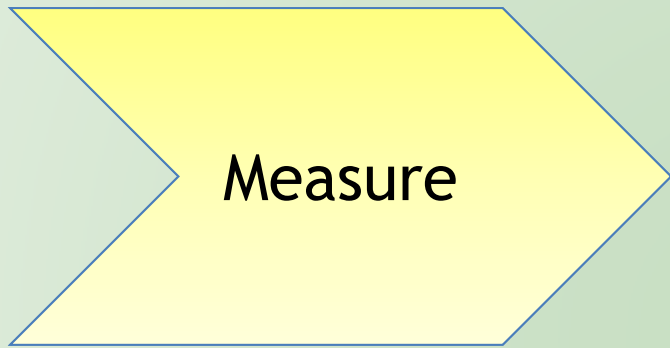
Components

- ④ **Assessment of actors, instruments & institutions** (country-related reports, reports on instruments of EU legislation/international law; some assessment of their effectiveness through interviews, analysis of police statistics etc.)
- ④ **Analysis of costs and impacts** of environmental crime with EU focus: compilation and aggregation of existing data on specific type of environmental crime
- ④ **Case studies** on different types of environmental crime, including a variety of methods (interviews, analysis of court cases/police records, observation, workshops etc)
- ④ **SWOT** analysis of EU efforts to combat environmental crime
- ④ So far **seven workshops** (+ one conference) with academic experts and practitioners

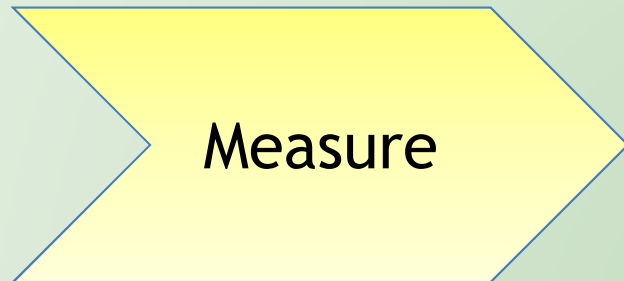
Effectiveness

Do measures taken by the EU and its Member States attain the objective of preventing and reducing environmental crime and thereby protecting the environment?

Standard framework for evaluating effectiveness



Framework applied to EU env crime



- ⊕ Depends on definition of environmental crime
- ⊕ Environmental crime directive (core)
- ⊕ Environmental directives dealing with behaviour that could severely damage the environment
- ⊕ Environmental liability directive

Framework applied to EU env crime



Output

- ⌚ Transposition by Member States and enforcement
- ⌚ Transposition: rather OK
- ⌚ Enforcement as measured by resources dedicated to it: difficult, no accessible data
- ⌚ Problems with enforcement: lack of specialised bodies, political priority, resources, cooperation, lenient sentences
- ⌚ But a lot of data missing & difficult to establish optimal level of efforts *ex ante* and in theory
- ⌚ Conclusion: only partially effective

Framework applied to EU env crime



Outcome

- ⌚ Behavioural change: compliance
- ⌚ Compliance is difficult to measure, so focus on non-compliance (criminal cases)
- ⌚ Data: court cases/convictions (partially), sentences (partially), seizures (e.g. wildlife crime, partially), police procedures - no aggregated EU data, reliability of data doubtful
- ⌚ No long term trends could be identified

Framework applied to EU env crime



Impact

- ⌚ Less environmental pollution/destruction
- ⌚ Lack of quantitative data on impact of environmental crime/illegal activities as opposed to legal activities (no data on environmental crime in first place, data sometimes available only at MS level, no distinction between legal/illegal activities)
- ⌚ Data availability better in some areas in the EU: e.g. forest fires (database following regulation at EU level)

Difficulties in assessing effectiveness

- 🌐 Effectiveness of current framework to combat environmental crime is very difficult to assess because of
 - Fragmented framework
 - Lack of data on actual crime committed (due to nature of criminal activity)
 - Lack of data on counter-measures taken (including e.g. sentences), partially because environmental crimes are not prosecuted
 - Lack of data on efforts invested in combatting environmental crime
 - Difficulty to interpret existing data

Factors likely to negatively affect effectiveness

- ⊕ Lack of specialisation of enforcement bodies (police/prosecutors) in many Member States
- ⊕ Lack of coordination between different authorities
- ⊕ Lenient sentences
- ⊕ Difficulties in transboundary cooperation
- ⊕ Environmental crime no priority among police forces („victimless crime“)
- ⊕ Regulatory framework sometimes perceived as difficult to implement and/or with some loopholes

Less relevant factors

- 🌐 Transposition of environmental crime directive in Member States seems by and large OK
- 🌐 Problem rather in enforcement (implementation) stage than in regulatory framework

Opportunities for EU action

- ⊕ Keep environmental crime high on political agenda, e.g. through mentioning it in strategic documents (e.g. EAP, Europol SOCTA), providing funding
 - ⊕ Improve reporting and data gathering and exchange within EU
 - ⊕ Fund and support enforcement networks
 - ⊕ Fund measures of police and judicial cooperation (such as joint investigation teams)
 - ⊕ Provide capacity-building for enforcement officials and judges (including in local language)
 - ⊕ Help build database on sentences in environmental crime cases
 - ⊕ Build on good practices of some Member States, support cross-country policy learning
 - ⊕ Provide funding for environmental NGOs active on environmental crime
 - ⊕ Enhance role of Eurojust and define role of European Public Prosecutor
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- **Focus on observed weaknesses/problems with enforcement, hope that addressing these will enhance effectiveness**
 - **Focus on (but not limited to) deterrence model**

Opportunities for EU action?

- 🌐 Revise environmental crime directive concerning sanctions (minimum sanctions, type of sanctions) on basis of Art. 83 TFEU?
- 🌐 Harmonise rules on inspection?
- 🌐 Further harmonisation of legislative framework at EU level (e.g. harmonise terminology of environmental liability directive and environmental crime directive)?
- 🌐 Measures to enhance access to justice of NGOs/victims in cases of environmental crime?
- 🌐 More stringent requirements on criminal liability of companies or civil liability for environmental crime committed by subsidiaries abroad?

How to stay tuned and contribute

- 🌐 Take a look at our website (www.efface.eu)
- 🌐 Follow us on twitter: Environmental Crime @EnvCrime
- 🌐 Expert workshop in London 22 October to discuss preliminary conclusions
- 🌐 Final conference 17/18 February 2016 in Brussels