

# *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

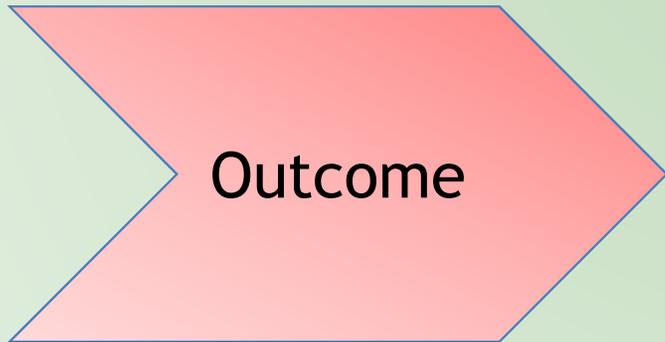
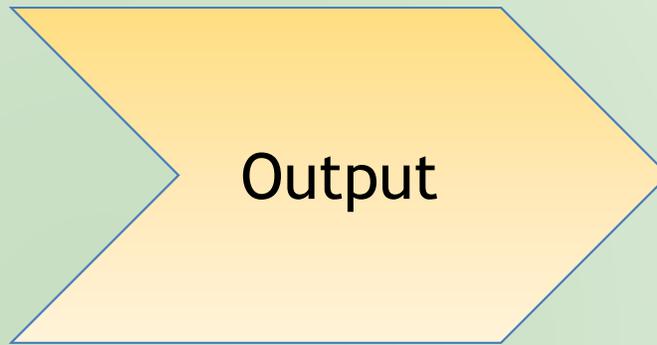
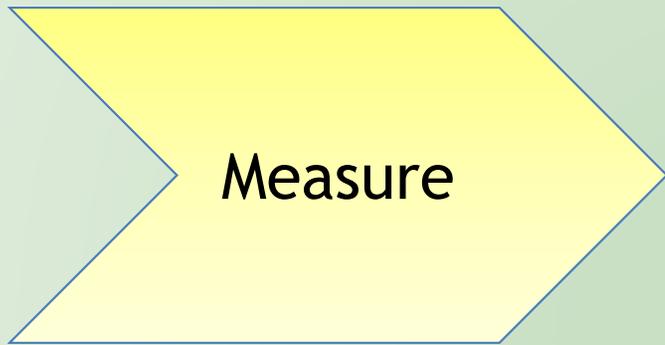
# Components

- 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

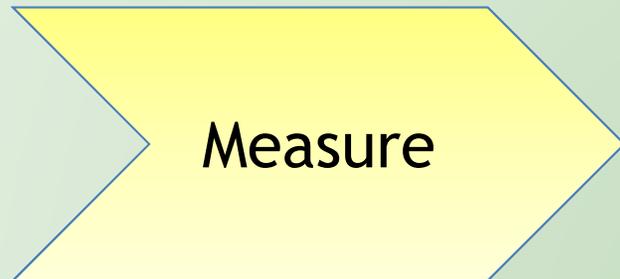
# Effectiveness

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](http://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