

# European Network of Prosecutors for the Environment

Réseau des Procureurs Européens pour  
l'environnement



## ENPE newsletter - Issue 22

14 May 2024

### Message from ENPE President Anne

#### Brosnan

Dear Colleagues,

After a particularly long and wet Winter here in Europe we head into Spring encouraged by the publication of the revised Environmental Crime Directive (ECD) EU 2024/1203

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L\\_202401203](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401203) on 30 April 2024 which includes new environmental offences and renewed emphasis on effective, dissuasive and proportionate sanctioning for those committing them.

The focus and breadth of the new Environmental Crime Directive, which places emphasis on training, collaboration and transnational co-operation are quite ground-breaking. These have always been special areas of focus for ENPE and our members because of the nature of our network. Crucially, however we are now armed with new tools to face the challenge of environmental criminality.

With change in the air, it is also opportune to share the news that although I shall remain a Board Member, a new ENPE President will take over from me this coming Autumn. I have been involved with ENPE since its inception and I have hugely enjoyed my 8 years as President but it is time for a change. Your Board has agreed some new arrangements for ENPE aisbl, as set out in more detail below. I have always felt that the strength of ENPE is the hard work and enthusiasm of our members and long may this continue. I will be handing over to my good friend and colleague Robertus de Rijck from the Netherlands, subject to your ratification of our proposals at our General Meeting in October.

We continue our fruitful relationship with the European Academy of Law (ERA), with our ENPE members delivering specialist training in environmental legislation and prosecution of environmental crimes. As ever, we are grateful for their participation and sharing of their relevant prosecuting experience. This has led to some fascinating case studies which have been presented and discussed at these events. Moving forward, our ENPE membership continues to grow and our outreach extends and we welcome our most recent members from the Republic of Armenia and Serbia.



We are also very pleased to report on the success of some of the projects in which ENPE participates or supports, including the BIOVAL project and the extraordinary Northern Bald Ibis project. More good news comes from Italy with their recent conference looking at the reform of the Italian Constitution and how to respect the new regulation to enhance the protection of biodiversity and animals in Italy. In Spain, we are encouraged to hear about a collaborative programme to deploy innovative technologies to monitor areas of high risk of forest fires. More details on this and other initiatives and events are included below.

One significant event in particular is our proposal for our Annual ENPE conference, this year to be held in Cork in Ireland in conjunction with the University College Cork Centre for Law and The Environment. The conference will be on 10 and 11 October 2024 so please remember to save the dates.

We hope that you enjoy this 22nd edition of the ENPE newsletter and as ever, welcome any feedback you may have.

With our Best Wishes, Anne Brosnan ENPE President and Shaun Robinson ENPE Project Manager.

## Latest news on Environmental Legislation from the European Commission



The European Parliament adopted the new Environmental Crime Directive, with its updated register of environmental offences following a vote by Members of the European Parliament (MEPs) on 27 February 2024. The new Directive, **EU 2024/1203**, published on 30 April 2024 is available for download here: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L\\_202401203](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401203)

This new Directive will address large-scale pollution crimes such as deliberately-started forest fires and intentional pollution of air, water and soil. There is provision for enhanced sanctions including prison terms and the need to compensate for, and reinstate damage caused. This is intended to ensure the handing down of effective, dissuasive and proportionate sanctions. Member States will be required to organise training for police, prosecutors and judges involved in the enforcement of environmental crimes. They will be encouraged to collect and share data to better understand the landscape around this huge problem and to enable better targetting of resources. We look forward to working with our members and the Commission in its implementation.

## ENPE Board Proposals

ENPE is constituted as an aisbl under Belgian company law and is run by its officers under a formal company structure. The President of ENPE is the Managing Director of ENPE aisbl and other Board members are Directors. We have been discussing changes to our Company structure for some time, primarily as a result of Brexit but also to ensure continuity in the running and development of the network,

At a meeting in Brussels on 12 April 2024 the Board formally agreed some proposed changes to our structure. From 10 October 2024 Robertus (Rob) de Rijck (NL) will take over as ENPE President, Lars Magnusson (SE) will move from the post of Secretary General to that of Vice-President alongside Jean-Philippe Rivaud (FR) who remains our International Vice-President. Anne Brosnan (UK) will remain as ENPE Board Member and will take up the role of Secretary General, ably assisted by Shaun Robinson who will remain ENPE Project Manager but also Head of Secretariat. Aisling Kelly (IE) remains Treasurer. David Smith (IE) and Antonio Vercher remain Board Members, as before and we will be asking for further volunteers to join our ENPE Board at our AGM in Cork, Ireland in October. These changes will not take place until ratified by our members at our AGM in October. We hope you will feel able to endorse these proposals in due course.

## ENPE training at ERA event 5-7 February 2024 Trier, Germany

ENPE President Anne Brosnan, together with ENPE Supporting Member Teodor Nita, pictured below, delivered a series of specialist presentations for our colleagues at the European Academy of Law (ERA) at their workshop on EU Legislation on Wildlife Trafficking, Deforestation and Illegal Logging, and Combatting Associated Crime for judges and prosecutors in Trier, Germany from the 05-07 February 2024.

Their valuable expertise in prosecuting environmental crime, particularly through sharing fascinating case studies, was greatly appreciated by the academy. Delegates were placed in working groups to participate in role-playing exercises during the workshop, where the value of the case law shared in the presentations was evident.

ERA are always grateful to our ENPE members for their input and we are continually seeking volunteers to contribute to these type of training events. They are a great development opportunity as well as providing excellent networking space, so if you are interested in being considered for future events in 2024 please contact Shaun at [shaun.robinson@environment-agency.gov.uk](mailto:shaun.robinson@environment-agency.gov.uk)



[Photograph provided by ERA]

## Italian Constitution changes to protect animals and biodiversity – LAV conference 22 February 2024

On February 22, 2024, two years after their Constitutional Reform to protect animals and biodiversity, the Italian environment and animal protection group LAV, in co-operation with members of the Italian Parliament, organized a conference at the Italian Parliament titled ***"Making Concrete the Protection of Animals and Biodiversity Two Years After the Approval of the New Article 9 of the Constitution."*** The conference featured the presentation of research commissioned by LAV to the University of Milan – Bicocca which looked at this issue, and published in the *federalismi.it* journal.

The constitutional law no. 1 of 11 February 2022 amended Article 9 of the Italian Constitution to read as follows: *"The Italian Republic protects the environment, biodiversity, and ecosystems, also in the interest of future generations. State law shall regulate the methods and means of safeguarding animals."*



This marked a crucial change in the Italian legal system itself, recognising the principles of protection of the environment, biodiversity, and ecosystems as distinct from and autonomous with respect to the human dimension and in an explicit way. The research considers the position of biodiversity and animals in the amended article 9 of the Italian Constitution and concludes that the new constitutional provision is first of all a pressing appeal to effectively implement a new fundamental principle – “the animalist

principle” – that is now enshrined in the Constitution and therefore endowed with the force of the highest-ranking positive law.

The conference provided an informative opportunity for discussing the general principle of protection in the context of the reform of the Italian Constitution and how to work to respect the new regulation in different areas and to enhance the protection of biodiversity and animals in Italy. Magistrates, including the President of the Supreme Administrative Court and the Prosecutor General of the Criminal Cassation University, Professors from Milan, Bologna, Rome, and Naples, Police Commanders, and experts in the field, attended and contributed to the discussions.



Photos from the well-attended event, provided by ENPE Supporting Member Dr Carla Campanaro, show the presenters, including Dr Campanaro and delegates at the conference venue in the Italian Parliament in Rome.



## BIOVAL – a project update



The 'BIOVAL' project is an ongoing European Union-funded joint initiative involving The European Union of Judges for the Environment (EUFJE), The European Union Network for the Implementation and Enforcement of Environmental Law IMPEL) and ENPE [BIOVAL \(eufje.org\)](https://biovaltool.eu/). The project has developed a non-binding, practical

instrument to value ecological damages in court. The project continued to make good progress in 2023 with the BIOVAL methodology successfully used in a first case in Belgium in March 2023. This decision was confirmed on appeal in January 2024. More details on this are provided here: <https://biovaltool.eu/> with a summary of the first case included below:

On 7 March 2023, the Criminal Court East-Flanders, Ghent division, ordered financial compensation to be paid, for illegal catching of starlings, of 15.400 EUR (200€ x 77 starlings), using the BIOVAL calculation method (extinction risk: 2€ + cultural value: 166€ + ecological value: 16€ + contribution to prosperity: 16€ = 200€ per starling). This decision was made considering that restoration in nature was impossible and even prohibited by law (Flemish Species Regulation of 15 May 2009). This *civil* compensation was to be paid to the Flemish Environment and Nature Fund for environmental restoration purposes (Mina Fund – a public fund financing prevention and remediation projects relating to nature and the environment) and is distinct from the *criminal* sanction that was ordered (120 hours community service).

The decision was appealed. On 26 January 2024, the Court of Appeal upheld the decision, considering that compensation was the only possible form of recovery, as the breeding and release of starlings to repair the damage caused to nature. The court approved the amount of the compensation calculated through the BIOVAL methodology, and approved the attribution of the compensation to the Mina Fund as a public fund that is “partly funded according to the principle 'the polluter pays', in this case 'the perpetrator pays'” and whose purpose is “to cover the costs of decontamination and restoration not covered by the revenue from levies and fines”. The court added that “This compensation restores the legal situation”.

This is a major step for BIOVAL, with judicial approval of its methodology. As can be seen from the website, the list of prices and case law that legal practitioners and in particular judges and lawyers will be able to refer to in their own cases, is being finalised. Hopefully this will inspire more countries in the European Union, as we know that about 10 EU countries have attempted to set forth or adopted methods to calculate such compensations. BIOVAL has also triggered a lot of interest recently, from legal practitioners and the press.

The website has now been launched (Spring 2024), and the project will start communicating and training judges. Please do keep up to date with the project & activities via the website [text & images from BIOVAL website]

## **Collaborative initiatives and new technologies to prevent forest fires in Spain**

The Office of the Prosecutor for the Chamber of Environment and Urban Planning in Spain (Ministerio Fiscal, Medio Ambiente) has taken a proactive stance in addressing risks posed by forest fires by working collaboratively with other enforcement agencies, including SEPRONA, Municipal Police and Forest Agents, to deploy innovative technologies such as drones and satellite imagery to map and monitor areas of high risk.

A key objective is to continue the strategic and pre-emptive work started by the Office in 2018 to ensure preventative plans were in place and workable in all municipal authorities with forest land. This is in recognition of the increased threats due to Climate Change as evidenced in the last few years where high temperatures and winds have caused an unprecedented number of devastating fires across Spain.

New technologies such as drones will be used to map and monitor at risk areas, as well as report on the physical parameters, including planning, to ensure compliance with preventative plans. As an example of both mitigation and adaptation to Climate Change, this initiative, driven by the Office of the Prosecutor for the Chamber of Environment and Urban Planning, is an important step in reducing forest fire risk and therefore the associated devastation of the environment.

## **ENPE outreach and representation at recent events**



**IAP**  
INTERNATIONAL  
ASSOCIATION OF  
PROSECUTORS



### **Joint IAP-UNEP Webinar: An Introduction to Environmental Crime**

ENPE Vice-President Rob de Rijck presented at a webinar organised by the International Association of Prosecutors (IAP) Global Training Academy and the United Nations Environment Programme (UNEP) on 20 March 2024 which provided an introduction to environmental crime for IAP members.

The webinar was to assist prosecutors to increase their knowledge of environmental crimes and to better understand the convergence between environmental crimes and other forms of criminal activity. Colleagues from INTERPOL as well as the IAP and UNEP also contributed to this event and a particular area of focus was the importance of collaborative approaches in prosecuting environmental crime, in particular through the roles of the different enforcement networks, including ENPE. As a network, ENPE works closely in partnership with

the other European environmental crime enforcement agencies and organisations. In co-operating and collaborating to fight environmental crime, we are most certainly 'stronger together'. [organisation images taken from webinar programme].

## ENPE, AELERT & Environment Agency meeting

ENPE President Anne Brosnan, Project Manager Shaun Robinson, together with Hannah Wooldridge of the Environment Agency (England) Waste Shipments and international Engagement team met with The Australasian Environmental Law Enforcement and Regulators network (AELERT) Chief Executive Officer Mr Greg Abood to discuss common international environmental enforcement objectives, potential collaboration opportunities and, in particular, the forthcoming AELERT-INECE Global Summit on Implementing and Enforcing Environmental Law.

AELERT, together with the International Network for Environmental Compliance and Enforcement (INECE) and their international network partners will convene the 2024 Global Summit on Implementing and Enforcing Environmental Law on November 6-8 in Brisbane, Australia - ***“We are better together: A Summit for regulators that will strengthen global cooperation and capabilities to better implement environmental law and build trust and confidence in regulatory systems”***.

This action-orientated event will strengthen worldwide cooperation and collaboration among regulatory practitioners and agencies to grow our collective capabilities and solve complex regulatory and law enforcement problems. [details from AELERT-INECE Summit programme and abstract documents]

The fruitful meeting, which was held at the Environment Agency offices in Reading, England, on 03 May 2024 provided opportunity for new links in the respective organisation's international enforcement work, particularly around waste regulation. Mr Abood was very grateful for the time spent on sharing details of the ENPE and Environment Agency activities and the results of their work, and we are also very grateful to him for updating us on the great work of AELERT. Mr Abood is pictured with Anne Brosnan, Hannah Wooldridge and Shaun Robinson after the meeting.



For more details on the AELERT-INECE Global Summit, including the programme and registration, please see [AELERT-INECE Summit 2024 \(eventsair.com\)](https://eventsair.com)

[Photo courtesy of Greg Abood 07 May 2024]

## ENPE at the WaldrappTeam Conservation & Research Symposium & panel discussion: “New approaches and technologies against illegal bird hunting”; 18-19 April 2024, Parc Zoologica, Verona, Italy

The introduction from the symposium programme provided great context for this important event which was held at the Verona Zoological Park and also online: *“For more than 20 years, alongside the reintroduction of a migratory Northern Bald Ibis population in Central Europe Waldrappteam has been implementing a campaign against illegal bird hunting in Italy. Despite a lot of effort only one perpetrator has been prosecuted and convicted. This disproportion is representative - illegal hunting is still a low-risk crime and a significant threat to biodiversity, not just in birds and not only in Italy.”*

ENPE Project Manager Dr Shaun Robinson presented in the opening session, explaining how ENPE had evolved as a prosecuting network and in particular the work completed so far in strengthening wildlife crime prosecution. Mention was made of the ENPE Wildlife crime Working Group and the joint training pack delivered in conjunction with the UNEP Convention for Migratory Species (CMS) which focusses on the Illegal Taking and Killing of Migratory wild birds in the Mediterranean region.

Speakers and delegates from across Europe were present with the welcome speech provided by Dr Johannes Fritz, Project Manager, who set out the objectives and also touched on how far the project has come over the past 20 years. Of particular interest in Dr Fritz’s second presentation, was the obvious success of this re-introduction project and the extraordinary lengths the team has gone to, to preserve, nurture and protect these amazing birds. That said, there is still much work to do, with most fatalities still due to anthropological activities, not least - illegal hunting.

The Symposium proceedings will include extended abstracts from the papers presented will be available from the projects website in due course Please see [Project Info - Waldrapp](#) for more details.

[Programme images taken from WaldrappTeam correspondence]



The poster features logos for Parco Natura Viva (Nature, all ways.), LIFE Northern Bald Ibis, and WaldrappTeam Conservation & Research. The event dates are 18th-19th April 2024 at Parco Natura Viva, VR, Italy. The main title is "New approaches and technologies against illegal bird hunting" in a blue oval, with "SYMPOSIUM AND PANEL DISCUSSION" below it. A circular callout box states: "Organized by Waldrappteam Conservation&Research, Förderverein Waldrappteam and Zoo Vienna together with Parco Natura Viva". At the bottom left is the "Co-funded by the European Union" logo. On the right is a photograph of a Northern Bald Ibis.



## United Nations Development Programme (UNDP) webinar on the Application of the EU Directive on Protection of the Environment through Criminal Law for colleagues in Bosnia and Herzegovina



ENPE Waste & Illegal Pesticides Working Group Co-chair and Permanent Representative for the Czech Republic, Katerina Weissova delivered an online presentation on 15 April 2024 on the application of EU Directives in relation to environmental crime as part of a United Nations Development Programme (UNDP) webinar for prosecutors and judges in Bosnia and Herzegovina.

The webinar was part of a year-long UNDP project which is seeking to strengthen the environmental Rule of Law in Bosnia and Herzegovina whilst recognising the global challenges of environmental crime. A key component of this is to improve access to environmental justice through supporting people-centred public policies and services. As an EU candidate country, aligning the objectives and initiatives in environmental legislation with the EU is a high-priority issue, something that ENPE is always keen to assist with.

The recent publication of the updated Environmental Crime Directive EU 2024/1203 with its additional offences included adding depth and breadth to how crimes against the environment can be brought to courts, makes this type of awareness raising and training so important. In particular, in ensuring that countries that are seeking to join the EU are fully in line with the legislative tools and processes in place to protect the environment.

Our colleagues at the UNDP were very impressed with Katerina's presentation and are looking forward to collaborating again in future. For more information on this UNDP project please see: [Strengthening Environmental Rule of Law in Bosnia and Herzegovina | United Nations Development Programme \(undp.org\)](https://undp.org/en/stories/2024/04/strengthening-environmental-rule-of-law-in-bosnia-and-herzegovina)

The webinar itself was also covered in the project's social media channel posts, which are available via the links below please see: <https://www.instagram.com/p/C507ITIKc9D/?igsh=MWc5ODI5Zm15djlsMg==>  
<https://www.facebook.com/share/p/ZiCFVmPhqkgw3Mm1/?mibextid=oFDknk>

[organisation images from UNDP invitation and correspondence, social media links provided by Alma Mirvic, UNDP]

# Interesting cases

## Netherlands

### Seatrade reaches settlement with Dutch Public Prosecution Service

Dutch ship owner Seatrade has reached a settlement with the [Dutch Public Prosecution Service](#) following the illegal export of four ships to India, Bangladesh, and Turkey for scrapping back in 2012. The agreement entails the payment of a total sum of 5,650,000 euros. Preventing further prosecution, fines totalling 2,650,000 euros were imposed on the shipping company and two of its directors, with an additional settlement of 3,000,000 euros.

On 15 March 2018, the District Court of Rotterdam found Seatrade and two of its directors guilty of violating the European Waste Shipment Regulation. However, this [initial ruling](#) was annulled by the Court of Appeal in The Hague on 30 June 2020, due to procedural irregularities, and a new trial was set to begin.

European legislation prohibits the export of toxic end-of-life ships from EU waters to non-OECD countries, and mandates specific procedures for the transboundary movements of hazardous waste within the OECD.

Acknowledging their breach of existing rules applicable to ship recycling, the management of Seatrade expressed regret for the actions taken and committed to ensuring future compliance with all relevant laws.

[Press Release - Seatrade reaches settlement with Dutch Public Prosecution Service \(mailchi.mp\)](#)

[Case details provided by Huib Van Westen, IMPEL]

## UK, England – Businessman ordered to pay £54,900 for historic waste crimes

- **Proceeds of Crime Act (POCA) hearing orders Michael William Leah to pay £54,900.**
- **Sum to be paid within three months.**
- **When he was convicted of six offences in 2011 he paid only £100**

From: [Environment Agency](#) (.gov website)

Published 11 March 2024



Environment Agency officer pictured on site [photograph from .gov website]

A Penzance businessman has been ordered to pay £54,900 for crimes he was convicted of 12 years ago, after he previously had paid only £100 in recompense.

Michael William Leah, 59, of Blue Horizon, Castle Gate, Ludgvan, near Penzance, Cornwall, England, UK appeared before Truro Crown Court on Friday, in a case brought by the Environment Agency under the Proceeds of Crime Act.

He was ordered to pay £49,900 for a confiscation order, plus £5,000 in costs. The sum has to be paid within three months, otherwise he will be sent to prison for 12 months.

The court heard that in August 2011, Leah was convicted of six offences related to illegally depositing controlled waste at sites near Newbridge, Gweek and in St Ives, for which he received a suspended prison sentence and made subject to a confiscation order. Though he had made £50,000 through his crimes, at the time of his conviction he was bankrupt and had only £100 to his name and was ordered to pay that in recompense.

Since then, he has inherited a property and his case was brought back to court last week following an investigation by the Environment Agency's Economic Crime Unit for reconsideration of the confiscation order. Leah maintained that his home was owned by a trust, but a paper trail showed that he was a trustee of that trust, with access to more than £700,000 in assets.

Now running a haulage company, Leah's three main contracts are worth over £200,000 and he owns vehicles worth a total of nearly £60,000. Following the hearing Ashley Davies of the Environment Agency said:

"This case shows that criminals who think they have got off lightly can think again. We'll still come after them if their fortunes change."

## Contact

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