

ANNEX 4: NATIONAL ENFORCEMENT  
STRUCTURES

IMPEL-TFS VERIFICATION 2 PROJECT

PROJECT REPORT

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CHAPTER

# 1 Introduction

This annex describes the enforcement structures of countries participating in the IMPEL-TFS Verification 2 project.

The following items are described, per country:

- Involved organisations and their responsibilities;
- Current cooperation;
- Legal powers;
- Problematic waste streams;
- Current difficulties in enforcement.

National overviews of some participating countries could not be provided, as well as a description of problematic waste streams.

The overviews do not have any legal status.



# CHAPTER 2 Austria

## 2.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
BMFLUW	National	Yes	Yes *	15 of about 1000

\* Waste transport inspections on a spot check basis, inspections of companies in case of TFS

In Austria the Federal Ministry of Agriculture, Forestry, Environment and Water Management – BMFLUW - is the only Competent Authority for granting permits for transfrontier shipments of wastes. Furthermore the BMFLUW is responsible for waste inspections of companies regarding to TFS. In cases of waste shipment-inspections on a spot check basis the BMLFUW co-operates with customs and the police/gendarmerie based on national legal provisions. In general the performance of regular waste transport-inspections has been assigned to the customs.

The representatives of the Ministry give advice, support and training-courses for customs and police and co-ordinate waste inspections on a spot check basis.

In total the BMFLUW has over 1000 employees. 15 employees are entrusted with granting permits for transfrontier shipment of wastes, management and enforcement of the Regulation 259/93.

The BMLFUW registers beside the permits of waste notifications also the three-day prior notification in a computer system. It is planned to give customs and police access to this data-base.

## 2.2 CURRENT COOPERATION

The BMLFUW cooperates with customs, environmental specialists at police, the Federal Agency for Testing Motor Vehicles of the ministry of Traffic and the Federal Environmental Agency. The cooperating organizations exchange information on a structural and on case-by-case bases. Most of these people are trained for the enforcement of Regulation 259/93. Part of this training is given by the BMLFUW. Furthermore in close co-operation with the

Federal Agency for Testing Motor Vehicles workshops on waste control and control of dangerous goods are organized for experts of the Provinces and the local authorities.

The cooperation with customs is based upon national law and brought in practice via joined inspections. Difficult cases are supported by the BMLFUW. Police takes care of criminal transactions. Administrative enforcement actions are taken by customs in general or by the BMLFUW.

## 2.3

### LEGAL POWERS

The BMLFUW is actively carrying out transport inspections on a spot check basis (3-5 times/year, duration 2-5 days) and company inspections (about 25/year). The reason for inspection is mostly originating upon information of others and also resulting from enforcement priorities.

In preparation of the inspections BMLFUW relies on consulting documents, elaborating inspection-plan while having contact with other competent authorities (customs, police). The inspections are performed by representatives from BMLFUW, customs and police together, who do administrative and physical checks, sometimes followed by sampling and analyses of waste.

If the given situation is not in accordance with the legislation in general or the given notification, administrative measures and in case of criminal relevance a prosecution follow. Sanctions are the return of shipment, administrative fees, penalties or administrative sanctions. The BMLFUW can withdraw given permissions and in case of the second conviction the involved company loses the claim for further notifications for 5 years.

The BMLFUW has personnel for executing their competences in enforcement tasks. The table indicates the available competences.

Qualifications	Remarks
Stop a vehicle for inspection	Sometimes - Usually executed by customs, police
Open containers or shipments	Always
Carry out inspections (waste shipments)	Sometimes - Usually together with customs, police
Carry out inspections (at site) in case of TFS	Always
Checking documents	Always
Sampling and analysing	Sometimes - executed by experts from the Federal Environment Agency
Detain shipments for closer investigation	Sometimes
Block shipments	Sometimes
Legal proceeding	Sometimes

## 2.4

### PROBLEMATIC WASTE STREAMS

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and/or the Basel Convention:

- Waste mixtures according to e.g. EWC 19 12 12.  
The amount of actually recyclable/recycled waste is hard or even impossible to verify.  
High risk of shame recycling and "eco-dumping".



- Electrical/electronic assemblies and – scrap.  
End of life electrical/electronic assemblies are often declared as non-waste. The decision whether these materials are product or not is very problematic.

Nature and amount of hazardous contaminants can mostly not determined during an inspection.

## 2.5

### CURRENT DIFFICULTIES IN ENFORCEMENT

The BMLFUW experiences the following difficulties in the enforcement of EU Regulation 259/93:

- The handling of the three days prior notification is regularly too late due to personnel lack. Therefore the planning of inspections based on these notifications is hindered;
- Unclear national and international definitions/classification of waste-streams;
- No common standards for waste(mixtures) used as e.g. alternative fuel;
- No common limit values for maximum allowed contamination of e.g. green listed wastes.



# CHAPTER 3 Belgium

## 3.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Federal Environmental Inspection (FLI)	Federal (Belgium)	Yes	Yes	unknown
Flemish Public Waste Agency (OVAM)	Regional (Flanders)	Yes	Yes	40
Brussels Institute for Environmental Management (BIM)	Regional (Brussels)	Yes	Yes	unknown
Walloon Waste Office (OWD)	Regional (Walloon region)	Yes	No	unknown
Department of Environmental Police (DPE)	Regional (Walloon region)	No	Yes	unknown

Distribution of responsibilities regarding TFS is:

- FLI: transit through Belgium;
- OVAM: import/export in or out of Flanders;
- BIM: import/export in or out of Brussels;
- OWD and DPE: import/export in or out of Walloon region.

Relationship between granting permission and enforcement are:

- FLI: granting permission as well as transit administration (three day prior notification);
- OVAM and BIM: administration of import/export out of their respective region (three day prior notification), granting permission, no distinct inspection service. Inspections are carried out by the same persons who grant permissions;

- OWD and DPE: separation between granting permission and EWC administration (OWD) and inspection (DPE);
- Ex-customs-agents: 11 FTE, competent inspectors for inspection of all types of international waste transports in, out and through Belgium. They carry out inspections by order of all authorities listed above.

## 3.2

### CURRENT COOPERATION

#### *Co-operation between OVAM and police*

Joined transport inspections on road transport (together with mostly federal traffic police) and container export (together with maritime police). Most transport inspections are carried out on a regular basis, but depending on the initiative of police services. This systematic way of working is especially through for harbour inspections. Case by case co-operation during inspection of waste facilities, mostly together with local and/or forensic police. OVAM inspectors act as technical advisors.

Some police corpses (especially maritime police) have received training on the basics of EWC, training organised by both OVAM and the environmental department of federal police. The total number of policemen dealing with environmental issues (contact persons within their corps) is approximately 300 in Flanders. These persons have received training on national and international waste regulation in 2004-2005.

A formal agreement between OVAM and police has been initiated but still awaits realisation. Most co-operation passes via the environmental department of federal police (information exchange, protocols, larger inspection projects, training, etc.). Exchange of information happens in a structured way (using ECO-reports for suspect waste transports that are inspected by police), and upon case-by-case information requests. OVAM competency is limited to registration of infractions, while police is allowed to carry out further investigations.

#### *Co-operation between OVAM and customs*

Customs services are the third competent authority on enforcement of EWC (after OVAM and police), but they don't make it a priority. Co-operation is rather case-by-case, and essentially passes via police services or ex-customs inspectors (now working for OVAM a/o.). There is a small network of customs agents dealing with EWC in the port of Antwerp. They have received a training from OVAM and they are followed-up by a customs co-ordinator. They act as contact persons for their colleagues and for OVAM/maritime police.

#### *Co-operation between OVAM and other competent authorities*

There is rare co-operation with local authorities (municipalities, provinces) on issues of transfrontier waste shipments, only case-by-case inspections on smaller waste facilities

## 3.3

### LEGAL POWERS

Legal powers of OVAM involve:

- Administrative checks of documents;
- Opening of containers/shipments for inspection;
- Sampling;
- Analyses;
- Detain shipments for closer investigation;
- Blocking shipments

- Legal and/or administrative sanctions.

**Basis for inspections by OVAM-inspectors**

The basis for inspections by OVAM inspectors involve:

- Random transport inspections (usually): about 100 per year;
- Transport road inspections targeted on specific types of waste (rarely), based upon rumours, tips, former infractions, but also when a notification is suitable for abuse;
- Port inspections: selections of containers depend on inspection of documents (suspect companies, suspect waste streams, deviant customs declarations);
- Company inspections: on a regular basis for take-back legislation, and case by case for infractions/problems that are reported by police, local government or citizens.

**Legal measures in case of infractions:**

Legal measures in case of infractions involve:

- Report (PV), but further investigation only if requested by public prosecutor;
- Administrative measures: return shipments, withdrawal of permissions;
- Fines: not possible for OVAM, only public servants (local government) can fine somebody for smaller infringements (e.g. dumping rubbish).

Qualifications	Extent of usage
Stop a vehicle for inspection	Always
Open containers or shipments	Always
Carry out inspections (waste shipments)	Always
Carry out inspections (at site) in case of TFS	Always
Inspect documents	Always
Sampling and analyse	Sometimes - usually executed by private lab
Detain shipments for closer investigation	Always
Block shipments	Sometimes
Legal proceeding	Sometimes

### 3.4

#### PROBLEMATIC WASTE STREAMS

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and/or the Basel Convention:

- Mixed pre-sorted industrial waste.  
An important flux of badly sorted industrial waste from Flanders to Germany and Walloon region existed until recently. Since the German dumping sites closed in July 2005 and police took legal action against one important trader organising transports to Walloon region in June 2005, most of this waste is dumped on Flemish sites. Nevertheless this waste stream remains important to keep an eye on because of its magnitude.
- WEEE.  
In Belgium most WEEE are recycled in a strongly developed take back system. However some of the WEEE continue to escape this system. Also an important percentage of the WEEE that have been dismantled, especially the components that are too expensive to be recycled in Europe, seem to be exported out of Belgium.
- ELV's.  
Antwerp is probably the most important port for the export of End-of-Life-Vehicles to African destinations. with Brussels as a main hub for trading and loading these vehicles that arrive from all over Europe.

## 3.5

### CURRENT DIFFICULTIES IN ENFORCEMENT

The OVAM experiences the following difficulties in the enforcement of EU Regulation 259/93:

- Three-day prior notification: administration has been improved, and today it is largely up to date. It remains to be seen whether companies always communicate the correct date of transport;
- Unclear legislation, especially at national level;
- Fragmentation of competencies in Belgium;
- Co-operation with customs (and sometimes police) depends on individual dedication. Although enforcement of waste legislation is still a priority to police, they suffer from a general lack of capacity;
- Cumbersome administrative settlement of infractions (e.g. return transports).

CHAPTER

# 4 Croatia

4.1

INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
MEPPPC Directorate for Inspection	National	No	Yes	Any of environmental inspectors can do TFS inspection
MEPPPC Directorate for Environmental Protection, Department for Waste Management	National	Yes	No	2-3
MFIN Custom Service	National	No	Yes	All custom officers
MI Ministry of the Interior	National	No	Yes	

The Directorate for Inspection is within the Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC). In total there are 60 environmental inspectors employed, and all of them are in competency of enforce Regulation 259/93, and it is authorised for inspection of all types of international waste transport in, out and through Croatia.

The Directorate for Environmental Protection is also within the MEPPPC and there are 6 employees in the Department for Waste Management, and 3 of them grant permissions for transfrontier shipments of waste.

The Custom service is within the Ministry of Finance.

4.2

CURRENT COOPERATION

Within the MEPPPC, the Directorate for Inspection cooperates with Directorate for Environmental Protection which is responsible for the environmental permitting waste treatment companies or sites, and collecting other relevant documents. Environmental inspection leads it's own internal database of all issued permits, as well as 3-day pre-

notifications from the companies. Custom services also keeps its own internal database of movement of goods. The cooperating organisations exchange information on a structural and on case by case bases.

The representatives of the MEPPPC give advice, support and training courses for customs and police, and co-ordinate inspection of waste on a spot check basis.

### 4.3 LEGAL POWERS

The Environmental Inspection has no competence (authorisation) to stop vehicles, so joint inspections with the police and customs is necessary. The inspection is performed by environmental inspection and customs and police, who do administrative and physical checking.

If the given situation is not in accordance with the legislation, following measures take place: administrative measures, fines, legal penalties, prosecution (sanctions), or suggestion for withdrawal of issued permit. In the Waste Act from 2004 stipulations related to inspection in this regard are set. The table below indicates the available competencies of the Directorate for Inspection.

Qualifications	Extent of usage
Stop a vehicle for inspection	Together with the police
Open containers or shipments	Sometimes
Carry out inspections (waste shipments)	Together with the police
Carry out inspections (at site) in case of TFS	Together with the police
Inspect documents	Always
Sampling and analyse	Sometimes, by other authorised institutions/companies
Detain shipments for closer investigation	Together with customs
Block shipments	Together with customs
Legal proceeding	Always

### 4.4 PROBLEMATIC WASTE STREAMS

Waste streams are not well known yet. It is hoped that out of the IMPEL - TFS Project Verification 2, some problematic streams will "arise".

### 4.5 CURRENT DIFFICULTIES IN ENFORCEMENT

Current difficulties in the enforcement of waste shipment regulations are:

- Legal follow up actions and/or penalties - courts do not fully grasp implications of waste problems and do not apply maximum fines provided in the law;
- Three-day prior notification - companies do not send those notifications, or they send them too late, as well as often fill them up irregularly;
- Cooperation with the customs and police - lack of capacity, relatively recent role in environmental issues;
- Rather low level of international exchange of knowledge;
- Hope that new Regulation of TFS will provide efficient inspection on this issue.



# CHAPTER 5 Czech Republic

## 5.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Ministry of the Environment	National	Yes	No	5 of 500
CEI	Regional	No	Yes	80 of 800
Custom offices	Regional	No	Yes	
Region offices	Regional	No	Yes	
CEHO	National	No	No	

Ministry of the Environment is only one institution obliged to grant permits for transfrontier shipment of waste.

The Czech environmental inspectorate (CEI) is an independent budgetary organization subordinate to the Ministry of the Environment of the Czech Republic. In total the CEI has over 600 employees. About 60 employees, divided over the 10 regions, are entrusted with the management and enforcement of the waste management regulations. There are no specialists on the enforcement of Regulation 259/93.

Centre for waste management (CEHO) summarizes data from waste records of individual waste producers and waste shipment notes.

## 5.2 CURRENT COOPERATION

The CEI has just started the cooperation with environmental specialists at police and with customs (with help and in the framework of running Phare Twinning Project CZ03/IB/EN/01 Integrated and Planned Enforcement of Environmental Law). The cooperation with police is on case-by-case bases, with customs common training and joined inspections have just started.

### 5.3

#### LEGAL POWERS

Legal powers at inspection of local companies/enterprises (environmental permitting) include:

- Administrative checks of documents;
- Opening of containers/shipments for inspection;
- Sampling;
- Analyses;
- Detain shipments for closer investigation;
- Blocking shipments;
- Legal and/or administrative sanctions.

The CEI is carrying out mostly company inspections. CEI has not competence to stop cars so the traffic inspections are being prepared together with the customs. Inspection of individual facilities focused on TFS procedures are mostly based upon request of Ministry of the Environment. Few inspections were carried out due to complaints or in case of returning back of the shipment from state of departure. The actual inspections are done by mainly administrative and sometimes physical checks, if it is necessary followed by sampling and analyses of waste.

If the given situation is not in compliance with the legislation in general or the given notification, the enforcement measures follow. Sanctions that are given when operation in conflict with the legislation are return of shipments (imposed by the ministry) or penalty (imposed by CEI). CEI can suggest the withdrawing of granted permit, this procedure is executed by the Ministry. The results of inspections are registered in the national CEI database.

The CEI has personnel for executing their competences in enforcement tasks. The table indicates the available competences and how often they are used.

Qualifications	Extent of usage
Stop a vehicle for inspection	
Open containers or shipments	Always
Carry out inspections (waste shipments)	Always
Carry out inspections (at site) in case of TFS	Always
Inspect documents	Always
Sampling and analyse	Sometimes; executed by other organisations
Detain shipments for closer investigation	
Legal proceeding	Always

## 5.4

### CURRENT DIFFICULTIES IN ENFORCEMENT

The CEI experiences difficulties in the enforcement of EU Regulation 259/93, like:

- The handling of the three days prior notification is regularly too late. Therefore the planning of inspections based on these notifications are hindered. Fining too late notified shipments is by that reason almost impossible. In relation to the administrative costs of the three day prior notification;
- Unclear legislation (especially marking waste or not waste in case-situations) and unclear definitions / misinterpretations of concepts;
- Little by little withdrawal from customs and police in cooperation due to other enforcement priorities;
- Lack of national/international exchange of knowledge.



CHAPTER

# 6 Denmark

6.1

INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Danish Environmental Protection Agency	National	Yes	Makes notifications. Normally no inspections	Unknown
14 counties	Regional	No	Yes. Carry out environmental approval and inspections in general incl. TFS inspections by bigger companies. Carry out transport inspection on e.g. high way.	Do not know the total number, but in County of Soenderjylland we have 3 to 4 persons involved.
271 municipalities	Local	No	Yes. Carry out environmental approval and inspections in general incl. TFS inspections by smaller companies.	Unknown

6.2

CURRENT COOPERATION

***Cooperation on Local level***

County of Soenderjylland cooperates with the Border police and the central Traffic police. The cooperation organizations exchange information about roadblock (made by the Border police) and mobile inspections. (Roadblock also in cooperation with customs and veterinarians). The County is responsible for "follow-up" with regard to enforcement of the Regulation 259/93, but fines are given by the Police based on the Report from the Authorities. Return of illegal shipments is made by the Agency based on the Report from the Authorities. Also border crossing cooperation exists with the Authorities in Schleswig Holstein (Germany) (Police, Custom and Environment Authorities).

### *Cooperation on National level*

On national level there are cooperation between the Agency, the Counties, the Municipalities and the Police – working group.

## 6.3

### LEGAL POWERS

The Counties are actively carrying out transport inspection and company inspections. The actual inspections are done by administrative and physical checks and sometimes followed by sampling and analyses of waste. If the actual situation is not in accordance with the legislation in general criminal prosecution (not very often) or administrative fines can be the result.

Qualifications	Remarks
Stop a vehicle for inspection	Frequently – (police)
Open containers or shipments	Always (Police and/or County)
Carry out inspections (waste shipments)	Always in cooperation with the central police or the border police – and sometimes with the customs and veterinarians
Carry out inspections (at site) in case of TFS	Always if there is problems with the shipment (Municipality or County)
Checking documents	Always – copy of documents and photo of the shipment
Sampling and analysing	Not very often
Detain shipments for closer investigation	Not very often
Block shipments	Very often
Legal proceeding	Increasing (in accordance with the enforcement guideline)

## 6.4

### PROBLEMATIC WASTE STREAMS

The following waste streams are defined as problematic, from the point of view of enforcement of EU regulation 259/93 and/or the Basel Convention:

- Electric and electronic waste.  
Wrong or different classification – green or unlisted waste.
- Old cars (ELV).  
Special Danish rules. Where the Government pays money for recycling of ELV waste, but some active persons export these ELV as products for e.g. Africa.
- Wood (green – art 11).  
Still a discussion product or waste – therefore very often art. 11 problems.
- Old tyre (green – art. 11).  
The same as ELV, but here is it import problems and also art. 11 problems.

## 6.5

### CURRENT DIFFICULTIES IN ENFORCEMENT

Current difficulties in enforcement are:

- Better coordination of and information about the classification of waste on national and EU level;
- Unclear legislation – product or waste and unlisted or green, amber or red waste;
- Better information about the legislation;
- Lack of national/international exchange of knowledge.

# CHAPTER 7 Finland

## 7.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Ministry of the Environment	National	No	No	1
Finnish Environment Institute	National	Yes	Yes	3

The Finnish Environment Institute (SYKE) is the only competent authority for granting permits for transfrontier shipment of waste in Finland and may take actions in case that shipments do not proceed as notified, or if the shipment takes place without a proper notification.

Further, SYKE also maintains and up-dates the database of the permits issued and the pre-notifications of the permitted waste shipments. SYKE is also responsible for site inspections of companies in regard to waste shipment issues. SYKE co-ordinates the enforcement actions nationally and participates in the international cooperation of competent authorities and other authorities.

The Ministry of the Environment is responsible for the national policy making in waste shipment issues, and participates in the international cooperation under the Basel convention and other international forum.

## 7.2 CURRENT COOPERATION

Regular inspections of waste shipments has been assigned to the customs as a part of their normal border control actions. The police is responsible of criminal investigations and also takes road traffic control actions. SYKE cooperates with both the police and the customs.

### 7.3

#### LEGAL POWERS

SYKE carries out the company inspections regularly (about 5/year). SYKE can use administrative measures in case of infringements. Legal sanctions, such as fines or in very severe cases imprisonment, can only be used after a criminal investigation and a court proceeding with the decision of the court.

Qualifications	Remarks
Stop a vehicle for inspection	Not usually
Open containers or shipments	Sometimes, in cooperation with the customs
Carry out inspections (waste shipments)	Sometimes, in cooperation with the customs
Carry out inspections (at site) in case of TFS	Regularly
Checking documents	Always
Sampling and analysing	Not usually
Detain shipments for closer investigation	Occasionally, in cooperation with the customs
Block shipments	Sometimes
Legal proceeding	Sometimes

### 7.4

#### PROBLEMATIC WASTE STREAMS

Problematic waste streams in Finland are:

- WEEE: consists of lots of different waste fractions. Waste streams can be hard to follow, because the final destination is not always clear;
- Plastic waste: shipments often carried out by small companies and without proper information of the details of the waste. It can be very difficult to decide if the waste is green listed, controlled by the regulation or product;
- Re-usable/ Refillable products: when they are waste?;
- Cable scrap: the final destination is not always clear. Cable waste stream control to Asia is also a bit unclear and the contacts to authorities in destination countries too slack.

### 7.5

#### CURRENT DIFFICULTIES IN ENFORCEMENT

SYKE notes the following difficulties:

- Unclear national and international definitions/classifications of waste streams;
- Low penalties for infringements in Finland;
- Difficult to allocate scarce resources effectively;
- Enforcement actions should be executed according to long term plan;
- Enforcement priorities vary between the different organizations (and countries);
- WSR does not completely recognise or react to the changes in the global waste trade. For example, the transportation routes can be difficult to notify precisely, especially in case of sea transports.



# CHAPTER 8 Germany

## 8.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

### ***Baden-Württemberg***

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Federal Environmental Agency (Umweltbundesamt UBA)	National	no	yes	7 (focal point Basel)
Hazardous Waste Agency (SAA Sonderabfallagentur) Baden-Württemberg	State of Baden-Württemberg	yes	yes	5 of 29
County / city administration (Landkreis / Stadtverwaltung)	District (35 Counties and 9 Cities)	no	yes	*

\* Not exactly determinable, because the staff of the environmental authorities of the county / city administrations are not only enforcing WSR exclusively, but also the totality of waste laws.

### ***North Rhine-Westphalia***

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Federal Environmental Agency (Umweltbundesamt)	National	no	yes	7
District governments (Bezirksregierungen)	State (Bundesland) North-Rhine Westphalia	yes	yes	Approximately 25

## 8.2

### CURRENT COOPERATION

Germany is a federal republic. Law consists of a "federal frame", adopted by the federal government and state laws, containing additional rules, operation rules and determination of competent authorities. The Federal Environmental Agency (UBA) is correspondent responsible in terms of Art. 36 and Art. 37 of the WSR (Council Regulation (EEC) No 259/93).

#### **Baden-Württemberg**

Enforcement of WSR in the federal State Baden-Württemberg is as follows: The Hazardous Waste Agency Baden-Württemberg (*SAA Sonderabfallagentur Baden-Württemberg*) is the competent authority giving permissions and enforcing the WSR. The County / City administrations are competent authorities enforcing the WSR in terms of identification of wastes and administrative fines. SAA and County administrations enforce waste laws at site, in some cases the district authority.

Transport controls on roads, rails and waterways are done by different units of police, customs and the federal agency for road haulage (*Bundesamt für den Güterkraftverkehr, BAG*). They stop vehicles and inspect the vehicle, general freight documents and the freight. In case of waste transports, the environmental authorities, in case of wastes the above mentioned SAA and County administrations check wastes and waste-related transport documents. Violations of waste-law are to be executed by the County administrations, if they are regulatory offences. Indictable or punishable offences are to be executed by police respectively a state prosecutor.

#### **North Rhine-Westphalia**

It is nearly the same situation in North Rhine-Westphalia like in Baden-Württemberg. In North Rhine-Westphalia (NRW) the 5 *Bezirksregierungen* (district governments) are the competent authorities giving permissions and enforcing the WSR.

## 8.3

### LEGAL POWERS

#### **Baden-Württemberg**

There are done 2 - 3 transport inspections a year, each lasting ½ or 1 day at different places and coordinated by the Ministry of the environment, SAA and State office of criminal investigation. Out of these organized transport inspections, Police and Customs control freight regularly and in case of conspicuous transports they trigger a summary proceeding at the competent authorities. Company inspections are done independent from transport inspections, initiated by many different causes.

Qualifications	Remarks
Stop a vehicle for inspection	Police, Customs, Federal Agency for road haulage (BAG)
Open containers or shipments	Police, Customs, BAG
Carry out inspections (waste shipments)	SAA and County administration
Carry out inspections (at site) in case of TFS	SAA and County administration
Checking documents	Police, Customs, BAG, SAA and County administration
Sampling and analysing	SAA and County administration
Detain shipments for closer investigation	Police, Customs, BAG

Qualifications	Remarks
Block shipments	Police, Customs, BAG, SAA and County administration
Legal proceeding	County administration (in case of violations of waste laws)

#### ***North Rhine-Westphalia***

Qualifications	Remarks
Stop a vehicle for inspection	Bundesamt für Güterverkehr (BAG), Customs, Police
Open containers or shipments	BAG, Customs, Police, inspectors of the Bezirksregierungen
Carry out inspections (waste shipments)	inspectors of the Bezirksregierungen, Police, BAG
Carry out inspections (at site) in case of TFS	inspectors of the Bezirksregierungen, Police, BAG
Checking documents	inspectors of the Bezirksregierungen, BAG
Sampling and analysing	inspectors of the Bezirksregierungen and inspectors of the Staatlichen Umweltämter NRW
Detain shipments for closer investigation	Police, BAG, Customs
Block shipments	Police, Customs, BAG, inspectors of the Bezirksregierungen
Legal proceeding	inspectors of the Bezirksregierungen

## 8.4

### PROBLEMATIC WASTE STREAMS

#### ***Baden-Württemberg***

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and/or the Basel Convention:

- End-of-life vehicles (ELV's) or their components;
- Fluff-light fraction and dust wastes from shredding of metal-containing wastes;
- Wastes from electrical and electronic equipment (WEEE), cables containing oil, coal tar and other dangerous substances;
- Construction materials containing asbestos;
- Sludge from treatment of urban waste water;
- Mixed packaging, combustible waste (refuse derived fuel), other wastes (including mixtures of materials) from mechanical treatment of waste, mixed municipal waste.

The first three mentioned waste streams are problematic due to expensive waste management of ELV's and WEEE in Germany, compared with eastern EU-members, the second three mentioned waste streams are problematic due to the ban on landfill of untreated wastes with organic components in Germany since 01.06.2005.

#### ***North Rhine-Westphalia***

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and/or the Basel Convention:

- Wastes from electrical and electronic equipment (WEEE);
- Mixed waste;
- Waste of sorting plants;
- Illegal transports to third countries. Waste goes the cheapest way.

## 8.5

### CURRENT DIFFICULTIES IN ENFORCEMENT

#### ***Baden-Württemberg***

- Unclear national/international definitions respectively different interpretation of law (product – waste; recovery – disposal);
- Planning and coordination of transport inspections are extensive. Cooperation of different authorities needs time to grow. Restructuring of administration disturbs grown cooperation;
- Verification of waste is a time-expensive work, which is esp. in case of green- listed wastes not always successful. The communication-chain is long (the following is a short one): ministry/country coordinator in country A – notification authority in country B – local environmental resp. Waste authority in country B - notification authority in country B - country coordinator in country A. In some cases, waste flows faster than information and arrival of waste at a processing plant is not always easy to reconstruct, if requests are submitted a week later than waste.

#### ***North Rhine-Westphalia***

- (Relationships with) The problematic waste streams as defined above;
- Cooperation and exchange of information in enforcement on national and international scale;
- Legal and administrative follow up actions and/or penalties;
- Delimitation waste/non-waste;
- Delimitation recycling/deposit.

CHAPTER

# 9 Ireland

## 9.1

### INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation 259/93.
Department of the Environment, Heritage and Local Government	National	No	No	Unknown.
Environmental Protection Agency	National	Yes for incoming waste	Yes	2
34 Individual Authorities	Local	Yes, outgoing waste	Yes	0 - 4 depending on the authority. Cork has 3 people involved on an ongoing basis, but enforcement of waste generally means that up to eight others may become involved occasionally

## 9.2

### CURRENT COOPERATION

Local Authorities are the main waste enforcement bodies in Ireland. They are entitled to request the support of the police force for any duties associated with this. In the main we call on the police for roadblocks and stopping vehicles. We also cooperate with the police on a number of their multi-agency roadblocks and inspections. We are looking at developing closer links to customs, but their main area of responsibility is the financial aspects of movement of goods. The Environmental Protection Agency office of environmental enforcement has recently begun the process of developing networks so that all agencies will cooperate more productively in the future.

- Local authorities, responsible for local companies/enterprises (environmental permitting);
  - Enterprises must get permission for development and construction of facilities from local authorities and these generally set environmental conditions. Discharges to air and water must be licensed by local authorities, except in the case of scheduled industry, where IPPC licensing by the Environmental Protection Agency applies;
  - Local authorities are the main enforcement agencies in respect of waste movement. They carry out all monitoring and recording of waste movement and most of the waste handling facilities, other than large scale sites. All waste carriers/collectors must hold a permit for the carriage of waste. Ten out of the 34 local authorities have been nominated to carry out this permitting. A waste carrier must have a permit for each region in which he collects waste.
- Eventual other organisations.

### 9.3

#### LEGAL POWERS

The Irish Waste Management Act provides for the appointment of Authorised persons. These can be appointed by a local authority or by central government. At present the Local Authority personnel perform most enforcement duties aided by police for stopping vehicles and safety. The authorised person may stop a vehicle although it is generally only the police that actually do so. Appendix 2 includes the sections of that act that are regularly used in respect of waste activities.

Qualifications	Extent of usage
Stop a vehicle for inspection	Frequently
Open containers or shipments	Occasionally. Risk of health and environmental issues
Carry out inspections (waste shipments)	Increasing frequency. Not often used in the past
Carry out inspections (at site) in case of TFS	Increasing frequency. Not often used in the past
Inspect documents	Always
Sampling and analyse	Seldom. Difficult to get samples to labs in three day timescale
Detain shipments for closer investigation	Always, storage locations can be a problem
Block shipments	Sometimes
Legal proceedings	Increasing frequency

### 9.4

#### CURRENT DIFFICULTIES IN ENFORCEMENT

Cork County Council Notes the following difficulties:

- Language problems: Contracts often in language other than English;
- The handling of the three days prior notification is irregular. Waste producers and brokers notify many possible movements depending on the final characteristics of the waste. Pharmachem waste often has variations in properties that may determine whether it goes to one waste facility or another. Companies will notify both possibilities and only decide which to use at the last moment. Producers do not like to hold the waste on site and so the most suitable notification is then used. . Therefore the planning of inspections based on these notifications is hindered;
- Difficulty in sampling and testing of wastes. Risk from opening containers and responsibility for consequential damage;

- Unclear legislation (especially determining waste or non-waste and green versus amber);
- Lack of development of links with police and customs. Customs main role is to check incoming goods for financial reasons of duties and taxes. Police role in waste management is new to them and they have little training in environmental issues;
- Lack of national / international exchange of knowledge. Third Country waste facility authorisations are not always readily available;
- Lack of information regarding third country acceptance of waste. Need for central database of Annex 5 prohibition;
- Low penalties following legal action. Courts do not grasp full implications of waste and will not apply maximum fines provided for in law;
- Difficulties with cross border movement where the movement only becomes illegal after it exits the Irish State and thus enforcement officers in Ireland may not follow it.





# CHAPTER 10 Malta

## 10.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Malta Environment & Planning Authority (MEPA)	National	Yes	Yes	5 of 450 grant permissions 10 of 450 perform inspections & enforcement

The Malta Environment and Planning Authority (MEPA) was recently formed some 2 years ago and falls within the Ministry of Rural Affairs and the Environment. It currently employs 450, the majority of which work on planning issues. About 75 employees within the Environment Protection Directorate work on environment issues, with recruitment ongoing.

Currently the Waste Management Team formally grants permits for shipments whereas the Pollution Prevention and Control Inspectorate perform the inspections and enforcements functions related to Regulation 259/93.

Systems and databases are being built in regards to the registration of the 3-day prior notification. The Inspectorate are currently building their enforcement capabilities in this sector.

## 10.2 CURRENT COOPERATION

MEPA is the competent authority in regards to regulation 259/93 but acknowledges the need for cooperation with other enforcement authorities including:

- The Malta Police Department;
- The Malta Customs Authority;
- The Malta Maritime Authority;
- The ADT - The Malta Transport Authority.

MEPA and its predecessors - The Planning Authority & Environment Protection Department - have always benefited with close cooperation with the Malta Police Department, which has its own environmental police unit, which historical dealt more with hunting and poaching issues. Closer ties are being built with the Police Traffic Unit as well. MEPA is currently working with several other authorities listed above to form Memoranda of Understanding with them in order to reach close collaboration on this matter. Several meetings and seminars have been hosted by MEPA.

### 10.3

#### LEGAL POWERS

The Inspectorate is still in its capacity building phase but is drawing up technical advice obtained from the EU Twinning Project and from the IMPEL network for the preparation of TFS inspections.

The powers of the Inspectorate is set in the Environment Protection Act of 2001 Article 25, which gives the inspectors the powers of entry, boarding of vehicles and vessels, sampling, picture taking, document analysis, issuing stop orders and blocking permits, and the powers of prosecution and assisting police.

MEPA recognises the need of sharing of resources and generally seeks the assistance of other authorities to pool resources and reduce overlap. Therefore, traffic inspections may be performed in conjunction with the traffic police in order to stop and inspect a vehicle.

### 10.4

#### CURRENT DIFFICULTIES IN ENFORCEMENT

One must appreciate the fact that enforcing Regulation 259/93 is very new to the Inspectorate, having the regulation coming into force on May 1<sup>st</sup> 2004. Both the permitting officers and the Inspectorate are still at the capacity building stage and there is not enough inspectors to cover all waste management types of enforcement. Key cooperation with the other authorities is still being worked upon.

Once a mutual understanding is achieved between authorities, MEPA must provide the other authorities training on basic waste management issues. Much groundwork must still be covered with both local companies as well as the ports in Malta. Malta serves as a hub for the Mediterranean region and experiences much traffic with an ever-growing economy at the Malta Freeport.

CHAPTER

# 11

## Slovak Republic

### 11.1

#### INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three days pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
Ministry of the Environment	National	Yes	No	4 of 400
SIE	National, Regional	No	No	32 of 246

The Ministry of the Environment of the Slovak Republic is the only institution obliged for granting permits for transfrontier shipment of wastes.

The Slovak Inspectorate of the Environment (SIE) is a specialised supervisory authority providing for the state supervision and imposing fines. SIE is responsible for waste inspections, including transfrontier shipment of wastes. The total number of SIE employees is 246 of which 32 (divided over 5 regions) are entrusted with the management and enforcement of Regulation 259/93, besides other activities.

### 11.2

#### CURRENT COOPERATION

SIE cooperates with customs and police, not only from the point of view of exchange of information on suspicion of illegal transfrontier shipment of wastes, but also from the point of view of joint inspections. The criminal transaction is taken by the police. Administrative enforcement actions can be taken by SIE.

### 11.3

#### LEGAL POWERS

Legal powers during the inspection of local companies/enterprises (environmental permitting) are:

- Administrative checks of documents;
- Opening of containers/shipments for inspection;
- Sampling;

- Analyses;
- Detain shipments for closer investigation;
- Blocking shipments;
- Legal and/or administrative sanctions.

SIE carries out company inspections. Inspections are focused not only on administrative checks of documentation, but also on physical checks of transported waste.

At borders or roads SIE performs inspections in cooperation with customs and police. Police and customs have the right to stop vehicles, not SIE.

When performing inspections, regardless when it is at company or at the border, SIE is entitled to take samples, analyses, check any relevant documentation, performs physical inspection. SIE decides, in disputed cases, whether the goods in question – in case of transfrontier shipment – is waste.

If the given situation is not in compliance with the legislation or the given notification, enforcement measures follow.

SIE has personnel for executing their competences in enforcement tasks. The table below indicates the available competences and how often they are used.

Qualifications	Extent of usage
Stop a vehicle for inspection	
Open containers or shipments	Always
Carry out inspections (waste shipments)	Always
Carry out inspections (at site) in case of TFS	Always
Inspect documents	Always
Sampling and analyse	When necessary, contracted company of SIE
Detain shipments for closer investigation	
Legal proceeding	Always

## 11.4

### CURRENT DIFFICULTIES IN ENFORCEMENT

SIE experiences difficulties in the enforcement of EU Regulation 259/93:

- The handling of the three days prior notification is regularly too late. Therefore the planning of inspections based on these notifications is hindered.
- Unclear and nor very efficient national/international legislation
- Lack of national/international exchange of knowledge.

CHAPTER

# 12 The Netherlands

## 12.1

### INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC Regulation
VROM Inspectorate South	National	No	Yes	5
VROM Inspectorate East	National	No	Yes	3
VROM Inspectorate North West	National	No	Yes	5
VROM Inspectorate North	National	No	Yes	2
VROM Inspectorate South West	National	No	Yes	8
VROM Inspectorate Head Office (Emergency Room)	National	No	Yes	3
VROM Inspectorate				26 of total 600
Senter/Novem	National	Yes	No	

The VROM Inspectorate is part of the Ministry of Housing, Spatial Planning and Environment (VROM). In total the VROM-Inspectorate has over 650 employees. About 30 employees, divided over the 5 regions, are entrusted with the management and enforcement of the Regulation 259/93.

The Senter/Novem (international report point for waste materials) works in assignment of the policy department SAS of the Ministry of VROM and SAS are the authorities that formally grants permissions for shipments in the framework of the appropriate EU Regulation.

## 12.2

### CURRENT COOPERATION

The VROM Inspectorate cooperates with environmental specialists at customs, police and the Traffic Inspectorate of the ministry of Traffic and Waterworks. The cooperating organizations exchange information on a structural and on case-by-case bases. Most of these people are trained for the enforcement of Regulation 259/93. Part of this training is given by the VROM Inspectorate. The total of number of specialists in The Netherlands is about 150.

Those specialists function as contact person for the VROM-Inspectorate for their organisation. The tasks of these specialists with regard to enforcement of the Regulation 259/93 are:

- Train and support their colleagues;
- Make a first selection of shipments;
- Carry out a first physical inspection or second opinion together with his or her colleague.

The cooperation is formalised in an agreement (with customs) and brought in practice via joint inspections. Difficult cases are handled over to the VROM Inspectorate. The criminal transaction is mostly taken by customs or police. Administrative enforcement actions can only be taken by the VROM-Inspectorate.

Less developed is profound cooperation with the local authorities (mostly provinces) who are responsible for the environmental permitting waste treatment companies or sites. The VROM Inspectorate tries to carry out joined inspections with the provincial inspectors or exchanges information about the environmental permits (acceptation of waste requirements and waste treatment capacity).

## 12.3

### LEGAL POWERS

The VROM Inspectorate is actively carrying out transport inspections and company inspections. The reason for inspection is mostly originating upon signals of others and also resulting from enforcement priorities. The inspection also operates on selection of organizations and transport (preventive operation).

In preparation of the inspections the VROM Inspectorate relies on consulting documents and having contact with other competent authorities (mostly provinces). The actual inspections are done by administrative and physical checks, sometimes followed by sampling and analyses of waste.

If the given situation is not in accordance with the legislation in general or the given notification, criminal prosecution and administrative measures follow. Sanctions that are given when operation in conflict with the legislation are return of shipments, legal penalties or administrative sanctions. The Inspectorate can withdraw given permissions, but this sanction is not often used. The results of inspections also the signals of the enforcement web are registered in the national VROM Inspectorate database.

The VROM-Inspectorate has personnel for executing their competences in enforcement tasks. The table indicates the available competences and how often they are used.

Qualifications	Extent of usage
Stop a vehicle for inspection	Sometimes
Open containers or shipments	Always
Carry out inspections (waste shipments)	Always
Carry out inspections (at site) in case of TFS	Always
Inspect documents	Always
Sampling and analyse	Sometimes; executing by RIVM
Detain shipments for closer investigation	Always
Block shipments	Sometimes
Legal proceeding	Always via enforcement-guidance

## 12.4 PROBLEMATIC WASTE STREAMS

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and / or the Basel Convention:

- Wastes from Petrochemical industries;
- Electronic waste;
- Wood;
- Plastic waste;
- Ferro/non ferro;
- Mixed paper and plastic waste;
- ELV's;
- Animal fat and bones.

## 12.5 CURRENT DIFFICULTIES IN ENFORCEMENT

The VROM Inspectorate experiences the following difficulties in the enforcement of EU Regulation 259/93:

- Unclear legislation (especially marking waste or not waste in case-situations) and unclear definitions / misinterpretations of concepts;
- Cooperation with other companies;
- Little by little withdrawal from customs and police in cooperation due to other enforcement priorities;
- Differences in enforcement with other countries, like Belgium and Germany;
- The Netherlands is an important country of transit, so many illegal transits are being detected;
- Lack of national/international exchange of knowledge.





# CHAPTER 13 Poland

## 13.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC regulation
Chief Inspectorate for Environmental Protection	National	Yes	Yes	9
Voivodship inspectorates for environmental protection	Regional	No	Yes	50 inspectors

Chief Inspectorate for Environmental Protection (CIEP) is the only competent authority for transboundary waste shipments in Poland. Staff of CIEP deals mainly with notifications and permissions, but is also involved in enforcement activities. CIEP also coordinates activities regarding the enforcement of EWSR at regional level. CIEP is headquarters of Polish Inspection for Environmental Protection and its premises are located in Warsaw. Poland is divided into 16 regions (voivodships). In total there are 16 regional (voivodship) and 34 local inspectorates (branches of regional inspectorates) in Poland. Regional and local inspectorates carry out inspections on a daily basis. Within voivodship inspectorates a standing expert panel has been created. The group which consists of 50 inspectors (one inspector per each inspectorate) meets regularly once or twice a year to discuss enforcement problems with EWSR. Those people focus on waste management issues but their scope of interest has been broadened to cover also waste shipments.

## 13.2 CURRENT COOPERATION

In 2003-2005 Polish Inspection for Environmental Protection carried out Phare project "Control of waste shipments". General aim of the project was to strengthen the supervision and control over transboundary movement of wastes, to increase the effectiveness of the Inspection for Environmental Protection, Customs, Border Guard and Inspection of Road Transport. Efficient enforcement of European Waste Shipment Regulation was the key objective of the project which has been carried out in close cooperation with German and Dutch experts.

Key partners in TFS enforcement activities are:

- Customs;
- Border Guard;
- Inspection of Road Transport;
- Police.

During project execution several trainings were organized. More than 300 enforcers met each other at local level which contributed enormously to better cooperation amongst them. Building the network was an important aspect of trainings.

At regional level environmental inspectors support other enforcers in their controls (joint controls with customs, border guard and road transport inspection are common).

### 13.3

#### LEGAL POWERS

Environmental inspectors carry out inspections on site (e.g. recovery/disposal facility):

- administrative check of documents,
- physical checks,
- sampling,
- analysis,
- legal or administrative sanctions.

Entrepreneurs are controlled in case of ongoing notification procedure and during the realization of shipments.

Road/border inspections:

- environmental inspectors are not able to stop vehicles,
- transport inspections always with other enforcers (customs road transport inspection),
- containers with customs seal can be opened only with presence of customs officer,
- detain shipments for closer investigation, blocking shipments.

The table indicates the available competences, how often they are used and the necessity of collaboration.

Qualifications	Extent of usage
Stop a vehicle for inspection	Sometimes (only accompanied by customs, road transport inspectors)
Open containers or shipments	Sometimes (containers - only accompanied by customs)
Carry out inspections (waste shipments)	Sometimes (only joint inspections with other enforcers)
Carry out inspections (at site) in case of TFS	Always
Checking documents	Always
Sampling and analysing	Not often
Detain shipments for closer investigation	Sometimes (always in cooperation with road transport inspectors, customs etc.)
Block shipments	Always (in case of illegal shipments)
Legal proceeding	

### 13.4 PROBLEMATIC WASTE STREAMS

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and/or the Basel Convention:

#### *Import and export*

- Waste for energy recovery i.e. alternative fuel EWC 191210
- Waste mixtures e.g. EWC 191212
- WEEE
- ELVs

### 13.5 CURRENT DIFFICULTIES IN ENFORCEMENT

Current difficulties in enforcement are:

- Unclear definitions: distinction waste / product.
- Lack of capacity



# CHAPTER 14 Portugal

## 14.1 INVOLVED ORGANISATIONS AND RESPONSIBILITIES

The table below presents a short description of the administrative structure, way of working and legal responsibilities of organisations involved in:

- Notification and permitting of transfrontier waste shipments, also regarding the three day pre-notification;
- Enforcement of waste shipment regulations.

Organisation	Level	Grant permission	Enforcement Authority	Number employees involved EC regulation
IGAOT - Inspeção-Geral do Ambiente e do Ordenamento do Território (Inspectorate for the Environment and Land Planning)	National	No	Yes	10 inspectors (involved in inspections of all waste management companies)
INR - Instituto dos Resíduos (Waste Institute)	National	Yes	No	3 (also with others waste matters)
DGAIEC - Direção-Geral das Alfândegas e Impostos Especiais sobre o Consumo (Customs)	National (local services)	No	Yes	1737 (in anti-fraud, economic, taxes and aware with waste matters)
GNR/SEPNA - Guarda Nacional Republicana / Serviço de Protecção da Natureza e do Ambiente (Police for the Environment)	National (regional services)	No	Yes	500 (in all environmental matters)

The IGAOT ((Inspectorate for the Environment and Land Planning) is part of the Ministry of Environment, Land Planning and Regional Development (MAOTDR) and is the competent authority to enforce all the environmental and land planning laws. Is a central service for inspection, environmental and land planning control which seek to guarantee the achievement of legal regulations related to the environment as well as ensuring administrative authority for the related services.

The INR is also part of MAOTDR and is the competent authority for all the notification procedures related to the EWSR.

The DGAIEC is part of the Ministry of Finances and Public Administration and is the competent authority for enforce the maritime movements of wastes and includes the customs.

The GNR/SEPNA is part of the Ministry of Internal Administration and is the competent authority for enforce the terrestrial movements of wastes.

## 14.2

### CURRENT COOPERATION

The IGAOT (Inspectorate) cooperates with INR - Waste Institute (competent authority for the notification procedures), GNR/SEPNA (Police for the Environment) and DGAIEC (customs). All the organizations exchange information related with EWSR. IGAOT and INR has provided training to the police and to the customs. Since some years ago, IGAOT and the police have been collaborating in a regular way and several wastes movement controls had been took place.

In 2005 IGAOT began the collaboration with the customs and it was already possible to do some inspections in two ports (Lisboa and Setúbal). They are now aware of the EWSR and inform IGAOT and INR about the detected wastes movements. It is necessary to implement more contacts with the customs of the North region (namely on Porto Port). We are trying to improve collaboration between Portuguese and Spanish entities, despite of the lack of interest of Spain on control EWSR

## 14.3

### LEGAL POWERS

The IGAOT is carrying out transport inspections (2-4 weeks/year) and company inspections related with illegal movements and others planning inspections. The inspections are done by administrative and physical checks, sometimes followed by sampling and analyses of wastes, namely on companies. Related to environmental infringements, we only apply administrative fines. Regarding illegal movements we force the return of the transports to the origin or to a legal destination. Within the framework of this project 10 site verifications were performed in Portugal.

The table indicates the available competences, how often they are used and the necessity of collaboration.

Qualifications	Extent of usage
Stop a vehicle for inspection	Always together with police
Open containers or shipments	Always together with police or customs
Carry out inspections (waste shipments)	Always together with police or customs
Carry out inspections (at site) in case of TFS	Always
Checking documents	Always
Sampling and analysing	Sometimes (analyses in Environmental Institute)
Detain shipments for closer investigation	Sometimes (customs)
Block shipments	Sometimes (customs)
Legal proceeding	

## 14.4

### PROBLEMATIC WASTE STREAMS

The following waste streams are defined as problematic, from the point of view of enforcement of EU Regulation 259/93 and/or the Basel Convention:

#### ***Export***

- Lead batteries to Castilla y León – Spain (some no notification procedures);
- Car wrecks to Extremadura – Spain (some contaminated wastes under article 11 or without declaration);
- Plastic and metal wastes to China (no CCIC inspections and knowledge of legal destinations).

#### ***Import***

- Metal scrap to 2 Portuguese Steel Industries (cases of mixture of wastes);
- Cal ashes to cement plants (some illegal destinations);
- ELV to dismantling (lack of legal definitions).

The main flows under special attention are:

#### ***Export***

- Car wrecks – to Spain;
- Plastic – to Spain, France, Germany, Hong Kong and China;
- Paper / cardboard – to Spain;
- Ferrous / Non ferrous metals – to Spain;
- Vegetal used oils – to Spain;
- Lubricant used oils – to Spain;
- Lead batteries – to Spain;
- Sludge with dangerous substances – to Spain;
- Electric and Electronic Wastes – to Africa.

#### ***Import***

- ELV – From France;
- Coal fly ashes – From Spain;
- Ferrous metals – From America, Europe and Africa;
- Sludge from rock explorations – From Spain.

## 14.5

### CURRENT DIFFICULTIES IN ENFORCEMENT

Current difficulties in enforcement are:

- Insufficient collaboration with the Spanish regions
- Few inspectorates (Galicia, Catalonia, ...);
- Lack of interest on this matter;
- Who controls the waste transports are normally the police.

The punishment for illegal transports is almost exclusively administrative (normally there are no criminal consequences for the infringers):

- Deficient national legislation and small fines;
- Weak collaboration with Public Prosecutors;
- In some cases we forced the return of illegal movements to the origin or to a legal waste management plant.

Also cases of waste plastic being exported to China are causing problems in Portuguese industry of plastic recycling. Information is needed concerning the legal destinations in China for plastics; collaboration of Catalonia (Barcelona Port), Netherlands (Rotterdam Port) and maybe the Secretariat of the Basel Convention is needed. Besides, it would be useful to build an European black list of illegal companies involved in illegal wastes movements. Furthermore, it is essential to harmonise national legislations in order to provide equal administrative and criminal sanctions.