



Republic of Serbia
Ministry of Environmental Protection

ACCESS TO JUSTICE RELATED TO CRIMINAL OFFENSES AGAINST THE ENVIRONMENT IN THE REPUBLIC OF SERBIA (WITH A SPECIAL EMPHASIS ON FORENSIC ENVIRONMENTAL EXPERTISE)

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Introduction

- ▶ Detection and identification of ecological crimes require specific, specialized knowledge of the competent authorities and the work of the police in detecting; proving involves cooperation with the competent inspection services and other government bodies.
- ▶ Of particular significance in detecting criminal offenses against the environment is timely and appropriate initial operation, in particular crime scene investigation and situational and reconstructive expertise.
- ▶ In order to identify and secure evidence and objects of the criminal offense, it is necessary to utilize experts from the appropriate fields. Therefore, timely consultation between the police, inspection services, the public prosecutor, and forensics is essential for successful investigation and prosecution.
- ▶ The work of the police to detect and prove environmental crimes involves their cooperation with competent inspection services and forensics experts, but, also, the identification and arrest of the suspect.

Legal Framework in the Republic of Serbia (1)

- ▶ - Criminal Code (Official Gazette of the Republic of Serbia No. 85/05, 88/5, 107/05, 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 and 35/19)
- ▶ - Criminal Procedure Code (Official Gazette of the RS No. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14, 35/19, 27/21 and 62/21)
- ▶ - Law on the conditions for performing expert work ("Official Gazette of the RS", No. 16/87 and 17/87)
- ▶ - Law on the Liability of Legal Entities for Criminal Offences (Official Gazette of the RS No. 97/08)
- ▶ - Law on Misdemeanors (Official Gazette of the RS No. 65/13, 13/16, 98/16, 91/19, 91/19, and 112/22)
- ▶ - Law on Economic Offences (Official Gazette of the No. 101/05)



Legal Framework in the Republic of Serbia (2)

- ▶ Criminal offenses against environmental protection are defined in Chapter XXIV of the Criminal Code. Criminal sanctions prescribed for these offenses are imprisonment and a monetary fine.
- ▶ According to the Criminal Procedure Code, criminal proceedings shall be initiated and conducted at the request of an authorized prosecutor or authorized officials from the police, if there is a suspicion that a criminal offense is committed. All criminal offenses regarding environmental crimes are prosecutable ex officio.
- ▶ When conducting an investigation, the competent authority, as a rule, requests the help of an expert in the forensic or other professions, who, if necessary, undertakes and finds, secures or describes evidence, makes the necessary measurements and recordings, makes sketches, takes the necessary samples for analysis or collects other data (Criminal procedure Code, Article 133, paragraph 2).

Institutional framework

- ▶ Ministry of Environmental protection
- ▶ Environmental inspection service
- ▶ The Directorate of Criminal Police of the Ministry of Internal Affairs:
 - The Unit for the Suppression of Environmental Crime and Environmental Protection
 - National Center for Criminal Forensics
- ▶ The public prosecutor
- ▶ In accordance with the law, expert work is carried out by:
 - 1. organizations established for the performance of expertise;
 - 2. public authorities;
 - 3. professional, scientific, and other organizations (faculties, institutes, etc.);natural persons.



The Directorate of Criminal Police

- ▶ The Directorate of Criminal Police of the Ministry of Internal Affairs is responsible for monitoring and organizing work on crime prevention, detection, and resolution of all forms of organized crime, corruption, and terrorism, as well as the application of measures and actions to clarify and document all criminal offenses and provide material evidence in accordance with by law. The Directorate performs the following tasks in particular:
- ▶ Plans, organizes, and implements activities related to the detection of criminal offenses and perpetrators and the provision of material evidence;
- ▶ Performs the tasks of securing evidence, its analysis, and tasks of criminal and forensic expertise;
- ▶ Performs forensic expert examinations;
- ▶ Monitors, studies and applies new work methods in criminology and criminal forensics.

The Unit for the Suppression of Environmental Crime and Environmental Protection

- ▶ The Unit was formed on February 23, 2022, in the Ministry of Internal Affairs.
- ▶ The Unit directs, coordinates and controls the line of work of the criminal police in 27 regional police administrations in the field of combating environmental crime, provides professional assistance, is directly involved in solving the most serious and complex crimes, cooperates with other ministries and state bodies and organizations, achieves international cooperation, improves the professional skills of police officers for successful and quality work in the conditions of application of modern means and methods in the fight against environmental crime and environmental protection.
- ▶ There are 3 sections in the Unit:
 - Department for the Suppression of Crime against Biodiversity,
 - Department for the Suppression of Crime in the Field of Waste and Hazardous Materials Management,
 - Department for Protection and Suppression of Crimes against the Environment from Damage, Pollution, and Other Harmful Impacts.
- The Unit solved a total of 485 crimes in the field of environmental crime, in connection with which a total of 469 criminal charges were filed against 400 individuals from the time of its establishment to early October 2022.

National Center for Criminal Forensics (NCCF)

- ▶ The NCCF performs forensic expert examinations and provides material evidence for the needs of the criminal processing system of the Republic of Serbia. The NCCF conducts forensic expert examinations in the following areas: DNA, general biology, forensic medicine, ballistics, physical chemistry (drugs, explosives, etc.), toxicology, forensic psychology, etc.
- ▶ It organizes, coordinates, and directly participates in the team's work for performing complex investigations and forensic processing of the scenes of serious crimes to secure material evidence.
- ▶ It cooperates directly with all criminal police services, competent prosecutor's offices, courts, and relevant international organizations to adopt modern work methods and apply the experiences of the best examples from practice in the field of forensic expertise and forensic processing of crime scenes.
- ▶ The NCCF is the first accredited organizational unit of the Ministry of Internal Affairs in accordance with the requirements of the international standard ISO/IEC 17025:2006 (ISO /IEC 17025:2005).

The investigation

- ▶ The investigation is one of the most common actions aimed at securing evidence undertaken by the police.
- ▶ The police or the prosecutor, if present, will, if necessary, ask for the help of an expert in a certain profession, who, if necessary, will also attempt to find, secure or describe evidence, make sketches, take the necessary samples, and an expert of a certain profession can also be invited to the investigation if his/her presence would be useful for presenting findings and opinions.
- ▶ Inspection authorities that provide professional assistance on the ground, carry out sampling (water, soil, or other liquids) independently, or by hiring accredited laboratories that have appropriate licenses to perform expertise, or measurements and deliver the results to police officers or the prosecutor's office for further action.
- ▶ Police officers carry out operationally tactical measures and actions outlined in the Criminal Procedure Code, and, if necessary for certain types of analysis they can engage the National Center for Criminal Forensics, which is qualified to perform certain analyzes required to prove criminal offense against the environment.

CASE I- Company Serbia Zijin Copper fined for pollution of Mali Pek River

- ▶ In March 2021, there was a public outcry over the pollution of the Pek River, which appeared murky, red, coppery, and green due to the activities of the Serbia Zijin Copper Company. After the complaints of a large number of citizens, the civil society organization „Regulatory Institute for Renewable Energy and the Environment” (RERI) hired the Institute for Mining and Metallurgy Bor, which carried out the sampling of silt from the Mali Pek River.
- ▶ The sampling results showed that the sludge was extremely polluted due to high concentrations of pollutants



CASE I- Hazardous waste at three locations in the city of Pancevo

- ▶ The police discovered that there was a large amount of hazardous waste at three locations in the city of Pancevo, and the judge issued an order to search the apartments and other premises at all three locations.
- ▶ An investigation was carried out by the police and the public prosecutor; and the investigation was attended by experts from the city's public health institute who sampled the substances found at these locations.



Major challenges and barriers

- ▶ There exists a small number of criminal cases related to environmental protection in the Republic of Serbia.
- ▶ The acts against the environment most often qualify as economic offenses or misdemeanors.
- ▶ The implementation of environmental expertise is very expensive and falls on the burden of the state.
- ▶ Future actions such as training, and workshops, on implementation of the environmental expertise among the prosecutors, environmental inspectors, and police are of utmost importance.



THANK YOU FOR YOUR ATTENTION!
QUESTIONS/DISCUSSION?

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