FINANCIAL INVESTIGATION OF ENVIRONMENTAL CRIMES IN NORTH MACEDONIA

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PURPOSE

Environmental crime consists of punishable behaviors that endanger the environment and nature, and it consists of numerous incriminations provided in the Criminal Laws of the states. In the Republic of North Macedonia, environmental crime is provided in Chapter XXII of the Criminal Code. Numerous environmental crimes have been moved here, starting from the basic crime of Pollution of the environment and nature, where threats to all ecosystems are foreseen, up to illegal hunting, illegal fishing, devastation of forests, torture of animals, and many others. With the latest amendments to the Criminal Code, the crime of Ecocide is prescribed, which stipulates that "anyone who, contrary to the law, to cause damage to the environment, shall take an action or shall fail to take an action that will cause serious, widespread or long-term damage environment, will be punished with a prison sentence of at least ten years or with life imprisonment" (Criminal Code, Official Gazette of RSM, 2023)

To suppress environmental crime, it is necessary to apply a large number of measures and activities from the police toolkit to effectively detect, prove, and clarify criminal acts. These include operational-tactical measures and investigative actions within the criminal investigation. But also, in parallel with the criminal investigation, measures, and activities are applied within the framework of the financial investigation for this type of crime. The purpose of the paper is to analyze the criminal, especially the financial investigation, which is applied to effectively suppress this type of crime. (Malish Sazdovska, 2013)

Financial investigations are an important part of the criminal investigation, because very often, in addition to committing the basic nature of the crime, other criminal acts are also committed. Thus, for example, the crimes of abuse of official position, money laundering, falsification of documents, giving and receiving bribes, etc. are often committed in deforestation. Corruption represents a significant difficulty in discovering, proving, and clarifying environmental crimes because it is represented, among employees of institutions: the Ministry of Environment and Physical Planning, State Inspectorate for Environment, Forest Police, etc. (Malish Sazdovska, 2023)

To fully reveal the flow of money and benefits in the form of illegal material enrichment, an efficient financial investigation should be carried out. (Nikoloska, 2008)

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DESIGN/METHODS/APPROACH

Content analysis methods were applied during the preparation of this paper. The authors have analyzed a large number of documents, such as Annual Reports from the Financial Police Administration, Statistics from the Ministry of Internal Affairs, the Assessment of threats from organized and serious crime, and others. Also, a certain number of legal acts, laws, conventions, etc. have been analyzed, and the answers to requests for access to public information are an integral part of the paper. At the same time, it must be emphasized that the Ministry of Internal Affairs fully deals with access requests, while other institutions have a partial reply that does not contain the requested data.

FORENSIC INVESTIGATIONS OF ENVIRONMENTAL CRIMES

In the Republic of North Macedonia, there are several competent authorities for the combating environmental crimes. These are the Ministry of Interior, the Customs Administration, the Inspectorates, the Financial Intelligence Authority, the Financial Police Authority, etc. Within their competencies and powers, they apply measures and activities within the framework of the methodology of combating environmental crime in the country. The methodology consists of several parts, namely: ways to find out about committed crimes; criminal and financial investigation; situational and other types of expertise during the inspection of the scene; determining the identity of the perpetrators; providing material evidence; filing criminal reports, etc. (Malish Sazdovska, 2013)

Investigations at the international level involve the government officials of various countries and provide measures and activities according to the national legislation of individual countries, but it is understood that in cases of transnational organized crime, actions are also taken at the international level. The role of international organizations that have defined the policy of environmental protection in their goals is particularly significant, as is the case with Interpol. Through the exchange of data and information within the framework of the investigation of a case, it is possible to gather important knowledge about certain criminal behavior and with the action of competent authorized officials from several countries to realize the case with an effective conclusion of arrest and conviction of the persons involved in the case of environmental crime. (Malish Sazdovska, 2014)

FINANCIAL INVESTIGATIONS INTO ENVIRONMENTAL CRIMES

Within the framework of criminal investigations, it is necessary to conduct financial investigations to discover, prove, and clarify all types of crimes, including environmental crimes.

On the international level, there are recommendations for conducting financial investigations into environmental crimes. Thus, The Financial Action Task Force (FATF) – the global anti-money laundering watchdog – estimates that environmental crime is one of the most profitable criminal enterprises, generating around USD 110 to 281 billion in criminal gains each year; however, its latest suggests that less than 1 percent of the profits are recovered. Recommendations for improving this condition include:

- countries need to bring financial crime and anti-money laundering expertise into public - policy dialogue on environmental protection and climate change,

– develop and developing countries to address long-standing gaps in their AML frameworks and ensure that AMP experts' partner with a wider range of public and private sector partners to detect anomalies,
– the public has an important role to play in helping to ensure environmental crimes are treated seriously and that criminals are sanctioned. (Pereira Gonzalez & Hart, 2024)

In the Republic of North Macedonia, the criminal police in the Ministry of Internal Affairs is responsible ex officio for all criminal investigations for the criminal acts provided for in the Criminal Code. However, in the area of financial investigations, other competent authorities such as the Financial Police Authority and the Financial Intelligence Authority may be involved. Operational-tactical measures and activities and investigative actions are available to these institutions, with the application of which criminal and financial investigations can be carried out. A special focus in this paper is placed on environmental crimes, as a subject of interest of these state institutions in charge of crime suppression in the country.

THE MINISTRY OF INTERNAL AFFAIRS IN COMBATING ENVIRONMENTAL CRIMES

The Ministry of Internal Affairs, according to the positive legal regulations in the Republic of North Macedonia, is in charge of combating all types of crimes, including environmental crimes. Namely, within the ministry there are a large number of organizational units that deal with the suppression of a specific group of crimes, such as, for example, organized crime, blood and sexual offenses, juvenile delinquency, property offenses, etc., but there is no separate organizational unit within the ministry, which deals exclusively with environmental crimes. This represents a serious obstacle to the successful and efficient detection, proof, and clarification of environmental crimes in the Republic of North Macedonia. For a long period, the academic and expert public advocated for the establishment of such a department, to prevent the perpetrators from committing acts against the environment and nature.

However, within the organizational units for general and organized crime, some inspectors also carry out criminal investigations for environmental crimes. According to the records of the Ministry of Interior for the period 2020-2022, the following crimes were registered:

Table 1. *Registered Crimes and Perpetrators of Crimes Against the Environment and Nature* (Source: Reply to A Request from the Ministry of Interior)

	Registered crimes and perpetrators of crimes against the environment and nature	2020		2021		2022	
		crimes	perpetrator	crimes	perpetrator	crimes	perpetrator
Article 218	Pollution of the environment and nature	3	1	3	6	1	1
Article 222	Transmission of infectious diseases in animal and plant life					1	1
Article 223	Contamination of feed or water						

Article 224	Destruction of plantations using harmful substances			3			
Article 225	Usurpation of real estate	39	42	72	87	82	100
Article 225-a	Illegal exploitation of mineral resources			7	8	2	8
Article 226	Devastation of forest	30	25	27	28	22	49
Article 227	Causing a forest fire	1	1	2	3		
Article 228	Illegal hunting	16	21	13	18	8	12
Article 228-a	Unauthorized hunting, keeping, and expropriation of wild animals and birds			2	2	2	6
Article 229	Illegal fishing	9	21	10	12	8	12
Article 230	Endangering the environment and nature with waste	7	7	10	8	37	53
Article 233	Animal torture	22	16	34	18	33	26
Total		127	134	183	190	196	268

Based on the statistical data from the Ministry of Interior, we can conclude that for a period of three years 2020-2022, there was a certain number of detected environmental crimes and filed criminal reports. For this period, there were a total of 506 criminal acts from Chapter XXII and 592 perpetrators. From the table it can be concluded that the most represented crime was a usurpation of real estate, then the devastation of forests, illegal hunting, illegal fishing, and torture of animals, other crimes are either little represented or no other crimes were detected.

About the ratio of the number of crimes to the number of perpetrators, it can be concluded that there is a smaller number of crimes, and a greater number of perpetrators, which points to a group classification of crimes. This conclusion applies to almost all environmental crimes under Chapter XXII, except for the crime of Animal Torture, which may indicate perpetrators who are multiple offenders.

The Ministry of Interior issues an annual report on its operations under the title Serious and Organized Crime Threat Assessment 2022, which includes the results related to illicit drug trafficking, smuggling of migrants, computer crime, illicit trafficking in arms, smuggling of excise goods, property crime, and cultural heritage, and from 2021, results regarding environmental crime will also be published. But the results published in the Assessment are not at a satisfactory level, because it is stated that:

- crime against the environment is a threat, with serious consequences in the medium and long term for the health and life of the citizens, as well as for the sustainable economic development of the country.

- criminal groups involved in illegal forest cutting have been identified, which in certain cases also use violence against officials.
- corruption has a strong connection with the execution of environmental and economic crime.
- there is a particularly low rate of detection of criminal acts, the competent authorities hardly recognize the criminal acts, and the authorized persons are legally limited or insufficiently materially technically and professionally trained. (Assessment, 2022)

These conclusions indicate that there are serious obstacles in carrying out criminal investigations for the combating environmental crimes in the country, which in the next period should be a priority for the competent authorities, to change the way of operation and increase the efficiency of investigations.

According to the Organized and Serious Crime Threat Assessment - Mid-Term Review 2023, it is stated that:

- Environmental crime is a current threat that is realized through the illegal use of natural resources, as well as the increasing threat to the environment and nature with waste. It can also be concluded that environmental crime is tightly intertwined with the legal business sector, with criminal structures abusing legal loopholes and legislative changes and using them for new criminal activity.
- In the Republic of North Macedonia, environmental crimes refer to the entire territory, but crimes most often occur by usurpation of real estate, endangering the environment with waste, etc.
- The detection function is assessed as low, which is due to the inefficiency of criminal investigations because there are still committed crimes that have not been prosecuted.
- In the reporting period, organized criminal groups were not discovered, but the possibility of organized action and cooperation with groups operating in the field of corruption and economic crime is assumed. (Assessment, 2023)

This periodic report presents data that indicate the presence of environmental crime in the country, its characteristics, scope, and dynamics, as well as the difficulties in its effective suppression.

THE FINANCIAL POLICE OFFICE

The purpose of the work of the Financial Police Office (hereinafter referred to as the Financial Police) is to protect the financial interests of the Republic of North Macedonia through the detection and criminal investigation of the crimes of money laundering and other proceeds of crime, illicit trade, smuggling, tax evasion, as well as other crimes involving unlawful property gain of considerable value. In that way, the protection of the financial interests of the European Union is ensured through the detection and criminal investigation of crimes related to the use of funds from the programs of the European Union, which the Republic of North Macedonia receives from the budget of the European Union.

During its operations, the Financial Police should respect the following principles: legality, proportionality, efficiency, and impartiality.

When conducting investigations, the Financial Police has the authority to:

- detect and conduct a criminal investigation of crimes that are prosecuted ex officio such as money laundering and other proceeds, illicit trade, smuggling, tax evasion, and other crimes with illegal property benefits of significant value, as well as to capture and report their perpetrators, provide evidence, other measures and activities that they can use for the smooth conduct of the criminal

proceedings ex officio or by order of the public prosecutor through the execution of the powers of the judicial police by the law;
- collect and analyze data on cash transactions, undertake pre-investigation and other measures when there are grounds for suspicion of committed criminal acts, follow the trail of money to detect criminal acts established by law, conduct inspection and review of accounting data and record in computer systems in the presence of a responsible person or a person authorized by them and perform other tasks by the law;
- perform forensic computer analysis of temporarily confiscated computer systems and other electronic devices;
- submit criminal reports to the competent public prosecutor for crimes within its jurisdiction, which are prosecuted ex officio;
- submit an initiative to initiate a tax and other procedure for the determination and collection of public duties before the competent authority;
- perform other tasks established by law.

Employees of the Financial Police have at their disposal certain powers that refer to: checking the identity of persons; summoning citizens and collecting information; apprehension; deprivation of liberty; retention; diverting, directing, or restricting the movement of people and means of transport in a certain space for the necessary time; temporary confiscation of objects; inspection and review of business books and other documentation; covert police action; braking, inspection of persons, baggage and means of transport; collection, processing, analysis, use, evaluation, transmission, storage and deletion of data; providing handwriting and signature samples; use of technical equipment and application of special investigative measures and hidden sources of data by the Law on Criminal Procedure. Financial police officers are authorized to carry weapons and other means of coercion and can also apply special investigative measures and covert sources of data by the Law on Criminal Procedure.

After the successful completion of the investigation, the Financial Police submits a criminal report to the competent public prosecutor in which it states the evidence. Documentation, items, sketches, photographs, obtained reports, minutes, official notes, statements, and other evidence are submitted to the criminal reports.

To analyze the work of the Financial Police, the reports of the Administration, published on their website, were analyzed. Electronic reports Statistics and analysis by year, from 2004 to 2021, are published on the website. Weaknesses in the analysis of the presentation of data on criminal acts include the existence of a detailed explanation of the conditions of the commission of the crime. Namely, data is presented on crimes committed Tax evasion, Falsification or destruction of business books, Money laundering and other proceeds from a criminal offense, Abuse of official position, Fraud, Damage or privilege of creditors, Abuse of powers in economy and others, but no information is given about the nature of the crime, whether it is in the field of environmental crime or other.

However, some specific data can be noted about the criminal acts contained in Chapter XXII of the Criminal Code of the Republic of North Macedonia, which refer to the protection of the environment and nature. Thus, it is established that in 2021 a criminal report was filed for 1 crime of usurpation of real estate and 1 crime of illegal exploitation of mineral resources. So, for the period 2004-2021, criminal reports were filed for only two acts of environmental crime, and no correlation can be made for other criminal reports.

CASE STUDIES

1. The FP filed a criminal report against three natural persons and one legal entity, due to the existence of a well-founded suspicion of the crimes of fraud and falsification of documents for damages in the total amount of 214,411,861 denars. (3428998 euros)

To obtain an illegal property benefit by falsely presenting facts, the perpetrators misled the damaged legal entity into unjustifiably paying a significant amount of money based on the purchase of old batteries, while using false forms for the waste of old batteries.

In this case, a crime was committed about waste, which indirectly endangered the environment and nature. With the implementation of financial investigations, criminal behaviors related to waste, dangerous substances, medical waste, etc. were revealed. This is a positive example of discovering, proving, and clarifying a crime related to financial transactions of objects and materials that should be deposited adequately, otherwise, the environment is endangered.

2. The Financial Police Office filed a criminal report against a natural person in the capacity of an official – a senior civil servant at the Ministry of Environment and Spatial Planning of the Republic of North Macedonia, due to the existence of a well-founded suspicion of using their official position in 2021 who acted contrary to the Law on the Environment, in such a way that without inspecting the installation and its operation to determine the fulfillment of the requirements according to the legal regulations, they prepared and approved an A-integrated environmental permit of Public Enterprise for Waste – Drisla Skopje, even though they did not possess appropriate equipment and installations for receiving and treating 22 codes of hazardous waste from the 36 specified in the issued permit. In 2021, 16,900 kilograms of hazardous waste from several legal entities were received and treated at Public Enterprise for Waste – Drisla Skopje, with which the defendant committed the crime of pollution of the environment and nature, and the legal entity acquired a property benefit for 455,368 denars, 7,282.5 euros

With the realization of this investigation and the submission of the criminal report, the responsibility of an official who abuses their official position and thereby commits the crime of pollution of the environment and nature is determined. This crime is a basic environmental crime because it refers to the pollution of all ecosystems of water, soil, and air, and it can be committed by both natural and legal persons.

3. The Financial Police filed a criminal report against a natural person in the capacity of responsible person and owner of the legal entity due to the existence of a well-founded suspicion of a committed crime: Illegal exploitation of mineral resources. The perpetrators, taking advantage of the same permanent relationship and the same occasions, in the period between January 01, 2017 and December 31, 2020 carried out illegal exploitation of mineral resources – mineral water defined by law, exploited the sources of mineral water, filled the water in bottles and put it in circulation, with which they acquired an illegal property benefit from the sale of bottled water for MKD 28,659,312.00. (458,336 euros)

With the realization of the investigation into this crime, it was determined that for a longer period than four years, the perpetrators carried out illegal exploitation of mineral water and acquired a significant amount of illegal material property benefit.

From the above examples we can conclude that, in addition to other competent authorities, the Financial Police undertakes specific measures and activities to realize criminal, that is, financial investigations to discover, prove, and clarify environmental crimes. Although the focus of their work is not this group of crimes, it can be noted from their actions in the field that, although in small numbers, there are also environmental crimes from Chapter XXII of the Criminal Code, which are the subject of their action.

THE DIRECTORATE FOR FINANCIAL INTELLIGENCE IN THE COMBATING OF ENVIRONMENTAL CRIMES

The Directorate for Financial Intelligence (hereinafter referred to as the DFI) has been operating since March 2002 as an authority within the Ministry of Finance. The Administration has been a member of the EGMONT Group since 2004 and is an equal partner of the Financial Intelligence Units from around the world. The information that it possesses, which is of interest to other countries, is delivered in a timely and protected manner, and it requests information that is of interest. International and regional cooperation, the mutual exchange of data, and the exchange of experiences in the field of prevention and detection are an important factor for the construction and establishment of an efficient and functional national system for the prevention of money laundering and the financing of terrorism.

The administration functions as a financial intelligence unit, with the basic competence to collect, process, and deliver data to prevent money laundering and terrorist financing. It is necessary to implement a series of comprehensive measures that should contribute to the most efficient implementation of the obligation to recognize attempts at money laundering and terrorist financing.

After collecting the data received from the responsible entities or state bodies, the DFI processes them, supplements them with data and information from other sources, from the country and abroad, and analyzes and submits the results of its analyses in the form of a report or notification. to the Ministry of Internal Affairs, the Financial Police Administration, and/or the Public Prosecutor's Office. Also, the DFI supervises the application of measures and actions for the prevention of money laundering and financing of terrorism over all subjects, independently or in coordination with the supervisory authorities.

The new Law on Prevention of Money Laundering and Financing of Terrorism establishes to a certain extent the regulation of the crypto sphere from the aspect of the risks of money laundering and financing of terrorism. Also, the law establishes obligations for service providers related to virtual assets to prevent money laundering and terrorist financing, control mechanisms in case of potential abuses of virtual or crypto-assets, and trading of virtual assets with up to 500-euro cash in Denar value by the strategies to reduce the gray economy. In addition, the previous law prohibits service providers from trading fully anonymous virtual assets known as privacy coins, as well as from using software tools to anonymize and interfere with transactions with virtual assets.

This law also provides for the measures and actions to detect and prevent money laundering and financing of terrorism, which are undertaken by the following entities:

- drawing up an assessment of the risk of money laundering and terrorist financing and its regular updating,
- introduction and application of programs for efficient reduction and management of the identified risk of money laundering and financing of terrorism,
- customer analysis,
- notification and submission of data, information, and documentation to the Administration by the provisions of this law and the by-laws adopted on its basis,
- storing, protecting, and keeping records of data,

- appointment of an authorized person and his deputy and/or establishment of a department for the prevention of money laundering and financing of terrorism,
- implementation of internal control and
- other measures resulting from the provisions of this law.

The law defines entities that must submit reports on suspicious transactions (hereinafter – STR) to the Administration when they suspect or have grounds for suspicion that money laundering and/ or financing of terrorism has been or has been carried out or an attempt has been made or attempts to launder money and/or to finance terrorism regardless of the amount of the transaction, when the property is the proceeds of a criminal offense or when the property is related to the financing of a terrorist act, a terrorist organization or a terrorist or a person who finances terrorism or weapons financing for mass destruction. DFI publishes annual reports on operations, so, during 2023, the subjects submitted a total of 191 STRs and 71 additions to STRs to the Administration, of which 188 STRs were submitted with suspicion of money laundering and 3 STRs with suspicion of terrorist financing. However, in the annual reports of the administration, it is not stated from which type of crime money laundering and terrorist financing are committed, and therefore we cannot present conclusions, on whether and how much income can result from environmental crimes in the country.

FINDINGS

The paper finds that criminal investigations for the suppression of environmental crime are undertaken to a certain extent, mostly by the Ministry of Internal Affairs, which, although it does not have a special organizational unit to fight this type of crime, nevertheless undertakes certain measures and activities in the field. However, as regards the financial investigations, it can be stated that they are not represented to a sufficient extent for the suppression of environmental crimes in the country. A problem for monitoring this problem is the way of keeping statistical records of individual institutions, which cannot be used to obtain precise data, for example: from which criminal offenses were provided illegally acquired material assets that are subject to money laundering.

CONCLUSIONS

Environmental crime is a threat to the environment and nature. That is why it is necessary to suppress it, by all competent authorities.

A special department should be established in the Ministry of Internal Affairs, which will deal exclusively with the detection and investigation of environmental crimes. At the same time, operational activity in the field should be strengthened, as well as raising the quality of submitted criminal charges. The investigative function of the Financial Police Authority and the Directorate for Financial Intelligence should also be increased.

In addition to criminal investigations, it is necessary to conduct financial investigations for this type of crime. Environmental crimes should also be covered by financial investigations, especially in cases where they are related to other crimes such as falsification of documents, money laundering, etc.

A special problem is the way of keeping statistics, where there is no precise data on financial investigations into environmental crimes.

Additional inter-institutional cooperation is also needed, with joint activities and data exchange for more effective criminal investigations into environmental crime.

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