



EU FOREST CRIME INITIATIVE: EU SUMMARY OF THE GAP ANALYSIS

**PROJECT COUNTRIES: BELGIUM, BULGARIA,
FRANCE, ROMANIA, SLOVAKIA AND UKRAINE**

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TABLE OF CONTENTS

INTRODUCTION	4
THE EU FOREST CRIME INITIATIVE	6
PART 1: DANUBE-CARPATHIAN REGION: BULGARIA, ROMANIA, SLOVAKIA, UKRAINE	8
PART 2: BELGIUM AND FRANCE	18
CONCLUSION	24
ANNEXES	25

INTRODUCTION

In the middle of modern Europe, people can see their forests disappear in front of their eyes, eaten up by a fatal combination of bark beetle, forestry crime and corruption. In some countries, this problem is compounded by the fact that space for civil society is shrinking, such as through threats of violence against concerned members of the public or smear campaigns against Non-Governmental Organisations and Civil Society Organisations or the fact that access to public funding is becoming more difficult for such organisations.

These obstacles do not stop certain brave people from trying to protect their forests, potentially putting themselves and their families at risk in the process. At the same time, people in the EU consume and work daily with timber products, often without realising that up to one-third (30%) of those products contain a risk that they were illegally logged¹.

A recent study states that: “Illegal logging and deforestation for agricultural expansion have probably become the single greatest threat to life on the planet” and “Forestry crimes may involve the greatest mismatch of government and intergovernmental resources spent on combating them relative to the crime profits that they generate”². This is one reason why organised crime has increasingly invaded this illicit sector.

Forestry crime and illegal logging deny governments tax and other revenue, and undermine the rule of law, principles of democratic governance and respect for human rights.

Properly enforcing a law means bringing cases to court. Despite the existence of EU legislation on illegal logging³ the countless calls for greater urgency in fighting forestry crime and the publication of actionable recommendations for more than a decade, the question remains: Why are there still nearly no significant forestry crime cases in Europe involving big players and/or organised crime networks?

This was the initial and fundamental question that guided the **EU Forest Crime Initiative**, a project financed by the **EU Internal Security Fund**. The project sought to enable effective law enforcement by stimulating networks that are able to detect forestry crime and respond to it. It covered six countries: Belgium, Bulgaria, France, Romania, Slovakia and Ukraine.

The first phase of the project, presented here in this EU Summary Report, consisted in a comprehensive gap analysis, conducted with the participation of supervisory authorities and Civil Society Organisations, in order to better understand what prevents the law enforcement officials and governments from properly detecting, identifying and convicting offenders of forestry crime, including organised criminal networks.

On one hand in Belgium and France, outcomes from the project showed large volumes of high-risk timber, possibly linked to forestry crime, are still routinely imported. Detecting breaches and convicting offenders under the EU Timber Regulation still proves challenging.

On the other hand, statements gathered from law enforcement officials and civil society organisations during the project workshops in Bulgaria, Romania, Slovakia and Ukraine show the stark imbalance of means in Eastern European countries: “The other side (e.g. organised criminal networks) has huge resources; we only have public pressure”; “We have a silent war on data”; “We are not fighting with the tools of the 21st century.” “Organized crime is always one step ahead.”

In order to truly tackle forestry crime, further rigorous analysis of the issues identified in this EU Summary Report is needed, together with the all-important ingredient of stronger political will. The good news is that modern technologies, such as new forensic methods that can help detect indicators of illegal wood and verify shipment documents at EU borders, are becoming operational and, if properly implemented, can become very useful tools in the fight against forestry crime.



1 2019 INTERPOL Global Forestry Enforcement, Strengthening Law Enforcement Cooperation Against Forestry Crime, 2019, 11 pages.
2 Nellemann, C. et al. 2020. The wicked problem of forest policy
3 The EU Timber Trade Regulation (EUTR) has been in place since 2013- https://ec.europa.eu/environment/forests/timber_regulation.htm?

THE EU FOREST CRIME INITIATIVE

CONTEXT

Forestry crime is a growing problem with its links to organised crime and corruption. In financial terms, environmental crime is the third largest crime sector in the world and amounted to US\$110-281 billion in 2018, of which forestry crime and illegal logging accounted for US\$51-152 billion⁴. Illegal logging accounts for as much as 10-30 % of the total logging worldwide, with some estimates as high as 20-50 %⁵ when laundering of illegal wood is included, with a growing involvement of organised crime. A significant proportion of forestry crimes and illegal logging are now carried out by organised criminal networks utilising an international network of quasi-legitimate businesses and corporate structures to hide their illegal activities, which include creative accounting to launder criminal proceeds or collusion with senior government officials. Organised forest crime continues to evolve and develop new methods to conduct forestry crime operations and launder illegal timber.

In 2013, the EU adopted new legislation, the European Timber Regulation (EUTR), to address products derived from illegal logging on the EU market. However, loopholes in the EUTR and its enforcement, as well as implementation gaps of other national laws in EU member states, have until now hindered real change, as shown for example by the results of the EUTR enforcement review, published by WWF in late 2019⁶. This gap analysis focuses on the implementation gaps in selected member countries.

The project entitled “EU Forest Crime Initiative” aims to enable effective law enforcement by stimulating networks that are able to detect forestry crime and respond to it. The project is being carried out in six countries: Belgium, Bulgaria, France, Romania, Slovakia and Ukraine.

The project includes conducting a comprehensive gap analysis to better understand forestry crime in the different countries by analysing gaps, identifying challenges along the enforcement chain but also opportunities to identify more cases and support forest governance and enforcement frameworks necessary to combat forestry crime, including the formulation of recommendations on how to address these gaps. The project is also meant to empower civil society to raise suspicions and to be a knowledgeable partner for authorities.

SCOPE OF THE PROJECT AND EXPECTED OUTCOMES

In the Danube-Carpathian Region, forestry crime is a recognised problem, threatening Europe’s last primeval forests and undermining government policies to manage and protect forests sustainably. In Romania, Bulgaria, Slovakia and Ukraine, the project focuses on forestry crime at domestic level as well as transboundary forestry crime.

More specifically, this project aims to provide a better understanding of forestry crime by analysing gaps, challenges along the enforcement chain as well as opportunities to identify more cases that could be taken to court and support the forest governance and enforcement frameworks necessary to combat crime across the regional forest sector, thereby improving transparency, governance and legality in forested target countries in Europe and motivating political will.

In Belgium and France, the project focuses on high risk imported timber products and/or those with complex supply chains, aiming to motivate existing environmental anti-crime networks to conduct independent investigations.

It aims at better understanding forestry crime by analysing gaps, challenges along the enforcement chain as well as opportunities to identify more cases that could be taken to court and aims at supporting the enforcement frameworks necessary to tackle the import of illegal timber, thereby improving transparency and motivating political will.

TARGET GROUP

The project partners’ approach was to target the most relevant stakeholders based on their positions and experience to ensure the development of a relevant and informative gap analysis.

Following this rationale, WWF and INTERPOL did not try to select an extensive number/pool of persons but rather to focus on the stakeholders who are formally accountable for combatting forestry crime and that were believed to bring the most added value to the gap analysis (such as the EUTR Competent Authority, police, prosecutors, judges, forest guards etc.).

The target groups for the gap analysis in Bulgaria, Romania, Slovakia and Ukraine include all stakeholders who are part of the enforcement chain from the forest to the judicial authorities.

The target groups for the gap analysis in Belgium and France include all stakeholders who are part of the enforcement chain, including, for example, National Competent Authorities, customs, prosecutors etc.

QUESTIONNAIRE

The project partners developed a questionnaire on forestry crime to capture both quantitative and qualitative information in order to have a comprehensive analysis as well as to reflect the personal views of the target group. The questionnaire was distributed to all key stakeholders identified by project partners. The survey focuses on four main parts:

- General knowledge about forestry crimes, illegal logging and trade on a national level, including *modus operandi* to commit forestry crimes;

- General knowledge about the EU Timber Regulation and other legislation in relation to forestry crime;
- Cooperation along the enforcement chain;
- Conclusion on challenges in relation to prosecution and potential for more cases.

WORKSHOPS

One workshop took place in each project country. In Bulgaria, Romania, Slovakia and Ukraine, workshops were meant to bring together representatives of all key stakeholders and Competent Authorities fighting forestry crime to exchange and be informed, and to ensure a common understanding about existing crimes occurring at domestic level, while improving collaboration between law enforcement agencies and raising awareness, and to draw the attention of the institutions and the State to forestry crime.

In Belgium and France, through several informative sessions, workshops offered a learning and exchange opportunity on illegal trade in timber, applicable legislation (such as the EUTR and CITES (Convention on International Trade in Endangered Species)) and methods for combatting it. Through interactive sessions analysing the specific challenges and case studies, the workshop had the objective of increasing capacity and improving cooperation between the different authorities at national/international level and civil society. Due to the sanitary situation, the French workshop took place online.

Altogether, 194 stakeholders and representatives of relevant authorities involved in combatting forestry crime attended the six workshops.

LINKS TO NATIONAL REPORTS

For more information on each country, you can access separate national reports, where you will find a lot of additional information and details, including the main outcomes from the questionnaires and workshop, as well as a detailed assessment of the results by WWF.

National reports also contain specifics about *modus operandi*, illustrated by examples from participants, and questionnaires both for the enforcement chain and NGOs and Civil Society Organisations (CSOs).

All national reports are accessible on www.wwf.de/eu-forest-crime-initiative.

4 Nellemann, C.; Henriksen, R., Pravettoni, R., Stewart, D., Kotsovou, M., Schlingemann, Shaw, M. and Reitano, T. (Eds). 2018. World atlas of illicit flows. A RHIPTO-INTERPOL-GI Assessment. RHIPTO -Norwegian Center for Global Analyses, INTERPOL and the Global Initiative Against Transnational Organized crime. www.rhipto.or. www.interpol.int

5 Nellemann, C. (Editor in Chief); Henriksen, R., Kreilhuber, A., Stewart, D., Kotsovou, M., Raxter, P., Mrema, E., and Barrat, S. (Eds). 2016. The Rise of Environmental Crime – A Growing Threat To Natural Resources Peace, Development And Security. A UNEP INTERPOL Rapid Response Assessment. United Nations Environment Programme and RHIPTO Rapid Response-Norwegian Center for Global Analyses, www.rhipto.org - accessible here

6 wwf.panda.org/knowledge_hub/7357123/WWF-Enforcement-Review-of-the-EU-Timber-Regulation-EUTR

PART 1: DANUBE-CARPATHIAN REGION: BULGARIA, ROMANIA, SLOVAKIA, UKRAINE

Answers to the surveys and outcomes of discussions during the workshop constitute the basis of this gap analysis, on top of which WWF made a complementary assessment.

ANALYSIS: KEY TRENDS, COMMON PATTERNS AND MAIN GAPS

Results from the analysis show that, although there are clear national specificities, the nature of gaps, issues and obstacles that prevent a stringent and effective fight against forestry crime are to a large extent similar between Bulgaria, Romania, Slovakia and Ukraine.

However, this does not mean that the magnitude and pervasiveness of these gaps and their related consequences are the same from one country to another.

Overall, in all four countries, the results highlight that forestry crime is clearly perceived as a major issue by respondents when it comes to damage to the environment and tax evasion/loss of revenues.

Nevertheless, methodologies for independent assessments of forestry crime, illegal logging and its impacts on forests ecosystems are missing. This explains the current situation where there are no agreed and shared figures on illegal logging at national levels. Official records usually present the identified forest crimes but the magnitude or severity of the phenomenon is not really known.

Some respondents provided data/figures relevant to their field and scope of activity based on observations and perceptions and extrapolated them to draw conclusions on overall trends for forestry crime - **an approach that has its limits and which shows the absence of agreed figures amongst stakeholders.**

At central level, outcomes show a lack of a clear strategy to combat forestry crime.

The results presented below are classified according to key categories for further clarity.

CORRUPTION

Corruption is seen as a critical common denominator and aggravating factor for forestry crimes at all levels. Conflicts of interest are too frequent and so is political interference in public administration and policies, possibly leading to the political nomination of representatives of supervisory authorities, and this partly explains why political will to combat forestry crime is low.

In Romania, recruitment of forest staff is not carried out in a transparent manner. This prevents and jeopardises the fight against forestry crime as forestry crime and corruption are interlinked phenomena that amplify each other.

In Bulgaria, for example, corruption is underpinned by the lack of willingness to fight forestry offences perpetrated by or with the involvement of foresters.

One additional major issue is the lack of protection for people uncovering offences and the fact that they are not sufficiently protected, including from criminals, considering the risks of reprisals that they are exposed to. Recent events in Romania, where several forest rangers lost their lives, show how significant the risks are for forest authorities who perform their duty.

RESOURCES AND KNOWLEDGE

In all four countries, problems with resources and knowledge were identified. The capacity of relevant authorities to fight forestry crime is insufficient at certain or at all levels, showing a discrepancy between mission/intention and reality on the ground.

The low level or absence of training throughout the enforcement chains is one of the

reasons why the awareness about/expertise on forestry crime issues and willingness/motivation to combat those crimes is low amongst authorities and capacity building is not identified as a priority. In addition, low salaries for forest staff and inspectors⁷ increase the chance of corruption and fraud, negatively impact the motivation of staff and do not act as a stimulus for people to apply for vacant positions.

As an example, in Romania, close to 90% of the respondents have never taken part in a training session/programme around law enforcement and improving how they fight forestry crime.

In Ukraine, the possibility for forest staff/forest authorities to obtain a percentage from timber sales exacerbates the problem of corruption, which can give citizens/individuals access to the forest to illegally harvest and sale timber.

In the four countries, capacity gaps, such as the lack of

specialised human resources/staff, were also mentioned and highlighted by respondents on multiple occasions and confirmed by the WWF analysis.

In Ukraine, the enforcement chain is underfinanced. State forest guards lack resources and equipment to investigate and arrest offenders and, overall, there is a lack of institutional capacity to carry out checks. In addition, there is a lack of specialists to determine the grade/quality of species.

In Slovakia, there is a lack of equipment and expertise to carry out investigations, as shown by the fact that employees of District Authority Offices do not have enough vehicles and, in some cases, have to use public transport or their own car to perform field checks or the fact that new employees were not provided with uniforms (without which they are not authorised to carry out checks).

In Romania, there is currently a shortage of specialised staff, which makes it difficult to react promptly and in real time after offences are committed and capacity building is not identified as a priority. There is also a lack of technical equipment, including tools to perform checks more easily and carry out stringent investigations. In addition, the supervision system is inefficient at the moment as checks are carried out mostly at forest level and not further down the supply chain when the wood is loaded, transported and dispatched.

Clear and comprehensive strategies on how to combat forestry crime are also lacking in all four countries, although there are some important steps forward, such as for example the implementation of the SUMAL (Integrated informational wood traceability system) in Romania.



Workshop in Kiev, Ukraine, September 2019

ORGANISATION OF THE FOREST SECTOR

In Ukraine and Romania the administrative fragmentation of the national forest fund (as a result of the restitution process, which has still not been completed) raises challenges.

In Ukraine, this causes problems with the illegal alienation of forests being transferred into private property, opening the door to illegal logging. In Romania, some forests belong to different owners and are not included in the national forest fund. This situation creates the conditions that facilitate illegal logging and forestry crime.

Bulgaria, Slovakia and Ukraine still do not have a single electronic system to process information on the planning, marking, use, certification, dispatching and processing of timber.

In Ukraine, the current electronic data system for wood management is inefficient and applies to only 73% of Ukrainian forests.

In Slovakia, a small number of powerful players influence the forestry business at different levels, from the decisions made by State enterprises to the type of timber being harvested (quality, quantity and species).



Workshop in Bucharest, Romania, October 2019

⁷ Inspectors in Romania and forest guards have relatively high salaries compared to staff working at the level of Forest Management Units (like forest rangers, forest district chiefs and even forest engineers).

Since the reform of the State administration in 2013, the land and forest departments of district offices are administratively under the umbrella of the Ministry of Interior but their control, professional forestry guidance etc. is supervised by the Ministry of Agriculture and Rural Development. **This reform is contributing to the deterioration of efficiency of the forest administration.**

In Bulgaria, the **organisation of the forest sector can lead to conflicts of interest and political pressure** since the Executive Forest Agency is dependent on the Ministry of Agriculture, Food and Forests. **The lack of transparency and competition in the processes of contracting and implementing logging activities and trade in timber creates favourable conditions for illegal logging to thrive.**

At the same time, the absence of a national forest inventory in Bulgaria makes it more difficult to provide independent checks on the data regarding changes in forests as well as the lack of clearly identified indicators to measure the effectiveness of supervisory activities.

LEGISLATIVE FRAMEWORK

There are, overall, common views in the four countries in terms of their respective legislative framework. Although it is usually agreed that all of them contain useful laws and tools to tackle forestry crime, several obstacles and gaps prevent the legislative framework from fully supporting the enforcement chain.

Implementation and enforcement at the forest level tends to be weak and challenging and the level of penalties **prescribed for environmental offences** is significantly too low to act as a deterrent. This does not actively discourage illegal timber products from being placed on the EU market⁸ and contradicts article 19.2 of the EUTR stating that “penalties provided for must be effective, proportionate and dissuasive”⁹.

Overregulation, complexities in the legislation as well as excessive bureaucratic procedures in forest management are making the fight against forestry crime more challenging.

There is also a low level of awareness and experience with

the EU Timber Regulation, including about the possibility to raise third party concerns.

Forest laws also tend to change on a frequent basis and are, to some extent, subject to different interpretations, difficult to apply in reality, easy for offenders to contest and do not always provide sufficient leverage to prove criminal activities in the forestry field.

In Slovakia, **illegal logging is not properly defined by law.**

In Ukraine, **the existing legislation is too weak on wood traceability systems** and checks and monitoring have not been properly designed as **the system does not focus on the first placing on the market. Manipulations in the organisation of round wood selling auctions are easy and the system can easily be rigged in a context where timber product pricing is not regulated by law.**

In Romania too, the **current marking-based checking system focuses too much on checking timber at forest level and does not focus on checking the first**

placing on the market further down the supply chain, when the wood leaves forests and before it is further dispatched on the market. At present, marking trees under the checking system is time consuming in terms of resources and allows the use of false markings, an offence that is practically impossible to prove in court.

In case of illegal logging, offenders must be caught while perpetrating the offence and corresponding stumps must be identified.

The illegal transport of wood on public roads (without documentation, for example) **does not lead to criminal sanctions** (offenders are given a simple fine) **regardless of whether the origin of the goods is illicit or not.**

The current system also offers opportunities for forestry operators to transport a higher volume than the one stated in their pre-paid contract. **Less than 1% of the wood transported from the forest to market are actually verified through primary delivery documents by those with responsibilities for carrying out checks.**

As another example, in Romania, due to calculation methods and errors in field measurements, the estimation of volume is also imprecise. **Legally, the margin of error when determining the volume of “standing” trees exceeds ±20%, and, depending on the objectivity of the assessor, the actual margin of error could exceed +50%.**

JUDICIAL

At the judicial level, there is an **obvious lack of success with serious forestry crimes cases, possibly involving organised crime.** The judicial system (but not only) **focuses too much on small-scale loggers and big players are not discouraged and not targeted.** There is a clear lack of significant trials and, as a consequence, **no substantial and public debates concerning the accusation of high-profile people** and society tends to have a low level of trust in the judicial bodies.

Violations of legislation are not systematically sanctioned and cases of forestry crime or illegal logging transferred by forest authorities to law enforcement agencies are **either not being investigated, not considered by courts** (possibly due to lack of reliable and actionable evidence to formulate the accusation), **given too little importance or handled too leniently.**

People working at the justice level are not well informed/ aware enough of the harmful and deleterious effects of not sanctioning forestry crimes and the possibility of penetrating organised crime networks is low due to lack of resources/evidence and corruption issues.

Different stakeholders (police, courts, prosecutors, etc.) **may also have different interpretations of the legislation.**

In Romania, due to a fragmented approach to forest crime and a shortage of judicial experts, **obtaining adequate evidence is difficult. Sanctions are usually not issued under criminal law**, especially in the case of smaller amounts of damage caused to the national forest fund. Trials are also very long and courts consider this kind of crime leniently.

In Bulgaria, the very low rate of recovery for penalties (currently 10-15%) shows that the enforcement and judicial system overall are not working as they should be, giving a sense of impunity to offenders and making the penal provisions of the Forestry Act practically meaningless.

COOPERATION

Cooperation along the enforcement chain as well as cooperation and communication between NGOs/CSOs and authorities need marked improvement to increase effectiveness in the fight against forestry crime **given that NGOs were identified as playing an important role in detecting and reporting forestry crimes.**

Interdisciplinary events such as workshops and seminars, as well as inter-institutional working groups, **are missing or not developed enough. Prosecutors, investigators and forest staff are not sufficiently connected to each other** and there are no liaison/contact persons designated amongst each authority.

Intersectoral protocols for collaboration between institutions may be missing and, where they already exist, they are not used to their full potential.



8 As shown by the recent infringement procedure against Romania, national authorities have been unable to effectively check the operators and apply appropriate sanctions. More information: ec.europa.eu/commission/presscorner/detail/en/inf_20_202

9 ec.europa.eu/environment/forests/timber_regulation.htm

INVESTIGATION AND CHECKS

In all four countries, evidence collected during the field investigations may be unclear and not actionable. Due to a lack of specialised staff/experts and resources, pre-investigation tends to be weak, insufficient and slow and does not generate solid evidence. There is a lack of follow-up/investigation after the identification/detection of violations at forest level, which usually comes late, and there is a long delay between the moment when the offence is witnessed and the moment when it is reported for prosecution.

Although forensic methods are recommended by the European Commission, they do not seem to be used in practice to support investigations and to detect the possible involvement of organised crime and to provide reliable and additional evidence for court cases.

Political pressure and political strangleholds on the forestry system, and links that politicians may have with the forestry business as well as with organised crime networks, make big forestry crime cases difficult to investigate. As a result, corruption, fraud, tax avoidance and money laundering seem to be missing in investigations.

Overregulation and burdensome red-tape procedures sometimes hinder the efficiency of checks and make investigation procedures long and complex and cases difficult to build.

Relevant tools and databases, which contain information about offences, offenders/recidivists, the status of investigations, important stakeholders etc., are not implemented for now and not sufficiently encouraged despite the fact that they could be of great

value for the enforcement chain through facilitating the flow of information, identifying good practices etc.

Appropriate performance indicators were not introduced for staff with responsibilities for carrying out checks and there is a lack of transparency following checks and on the results obtained (absence of a public database with the result of checks/criminal record of operators).

Also, strategies tend to focus more on running checks at the forest level, which proves to be challenging, instead of checking people/companies transporting or processing timber.

In Ukraine more specifically, there is an absence of forest police hubs in regions with a fully-fledged, motivated and properly equipped law enforcement agency with undercover investigators who have the skills to investigate forestry crimes. In Slovakia, the current supervisory mechanisms are not effective, especially on the harvesting and transportation of wood.

In Romania, the establishment of checks does not follow enough of a risk-based approach that would help to prioritise checks based on objective and transparent criteria.

KEY ACTORS INVOLVED IN FORESTRY CRIME

Respondents to the questionnaire were asked to establish who are known actors involved in forestry crime. The results are presented in the graph below:



- According to 64 respondents, slightly more than half, poor citizens/local residents are involved, to some extent, in forestry crime.
- The main argument put forward is that poor households rely heavily on the use of illegally harvested timber as firewood.
- Poverty may also cause certain citizens to ignore and/or misunderstand existing legislation on the prohibition of illegal logging of trees, leading to frequent harvesting for firewood.
- However, this should not be interpreted as if crimes/illegal logging carried out by local residents represent half of the “damage” to forests. This figure should be regarded as indicative, plus the scale and extent of the damage (both regarding forest destruction and tax evasion) is much more likely to be considerable in the case of organised crime.
- Nevertheless, small scale illegalities and poverty-related forestry crimes seem to be quite common and widespread, thus making it a significant problem at national level in all four countries.
- Some “poor” offenders may also be linked or work for an organised crime structure. There is also a risk for those (repeated) offenders not to be prosecuted because they are, in most cases, unemployed, socially weak and not able to pay.

- **Small and Medium Sized Enterprises (SMEs)** are considered as known actors involved in illegal logging, from the buying and processing of illegal timber, to the export or reselling to another entity.

- **Regarding corrupt officials and businesses,** respondents stress the high rate of corruption and nepotism that Bulgaria, Slovakia, Romania and Ukraine are facing. Respondents outlined the existence of interconnections between politicians and people from organised crime networks with foresters, creating the conditions within which forestry crimes can thrive. In such situations, people involved usually seek high levels of profit, possibly on a large scale, from the harvesting, processing and selling of illegal timber.

- **Forest staff and forest authorities** play a crucial role as they are at the centre of forest management and forest protection. On the other hand, due to corruption issues, exacerbated by their low salaries and potential threats that they are exposed to from criminal networks, some forest staff engage in forestry crime, facilitating the harvesting and selling of illegal timber. It was highlighted that poor citizens do not have access to the forest to engage in the sale of illegal timber trade as forest authorities should take, in principle, all legal responses and report any offence. **Illegal logging of timber and its further sale is therefore impossible without the help/support of forest authorities.**

- Although it can be difficult to attribute forestry crime to **organised crime**, as it can encompass many different types of people/organisations, including the above mentioned (Small- and Medium-sized Enterprises, forest workers, corrupt officials etc.) and exist under various forms, respondents from all four countries acknowledge the existence of criminal networks operating in forestry.

- “Organised criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences in order to obtain, directly or indirectly, a financial or other material benefit.

- There is a consensus amongst respondents that the numerous cases of forestry crime involving poor citizens have minor implications individually (but collectively significant ones) in terms of damage to the environment and economy but that organised crime accounts for very few cases but with major implications regarding damage. For now, as explained above, cases in courts focus too much on small-scale loggers and criminals are not discouraged and not targeted. There is a clear lack of significant trials and, as a consequence, no substantial and public debates concerning the accusation of high-profile people and people belonging to criminal networks.

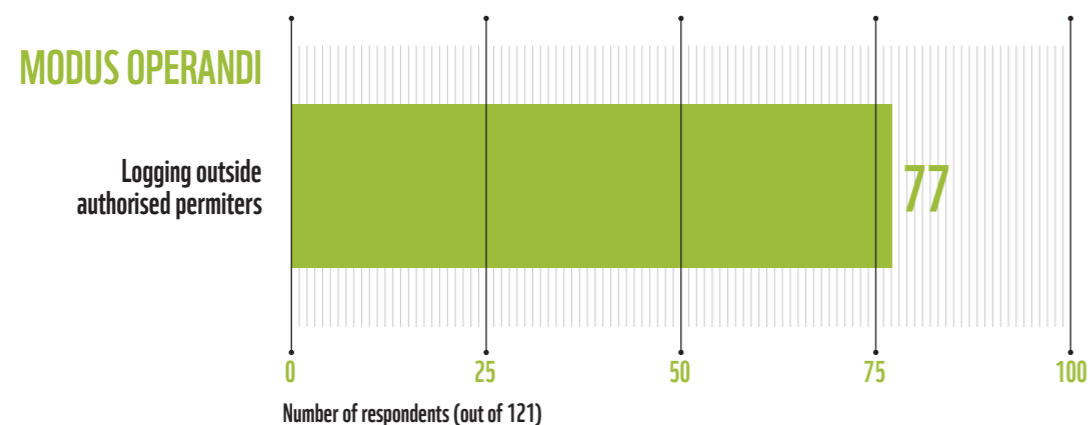
TYPES OF FORESTRY CRIMES: MODUS OPERANDI AND OCCURRENCE

- Respondents were asked in the questionnaire to select *modus operandi* for forestry crime that they are aware of in their respective country. The list of different *modus operandi* was based both on a literature review as well as on WWF's experience.
- *Modus operandi* refers to the methods used to carry out forestry crime (please see the definition above) across the entire supply chain, from illegal harvest to transport and trade.

- Below is a summary of the *modus operandi* most commonly selected/chosen by respondents. Further *modus operandi* as well as examples reported by respondents are available in national reports.

Results show the existence of obvious similarities in terms of the *modus operandi* encountered in Bulgaria, Slovakia, Romania and Ukraine. According to the answers received, the most common *modus operandi* are:

Logging outside authorised perimeters (not the perimeters described in the official documents).



This *modus operandi* ranked first in Ukraine, second in Bulgaria and Slovakia and third in Romania.

Logging of unauthorised trees in forest stands earmarked for felling/logging



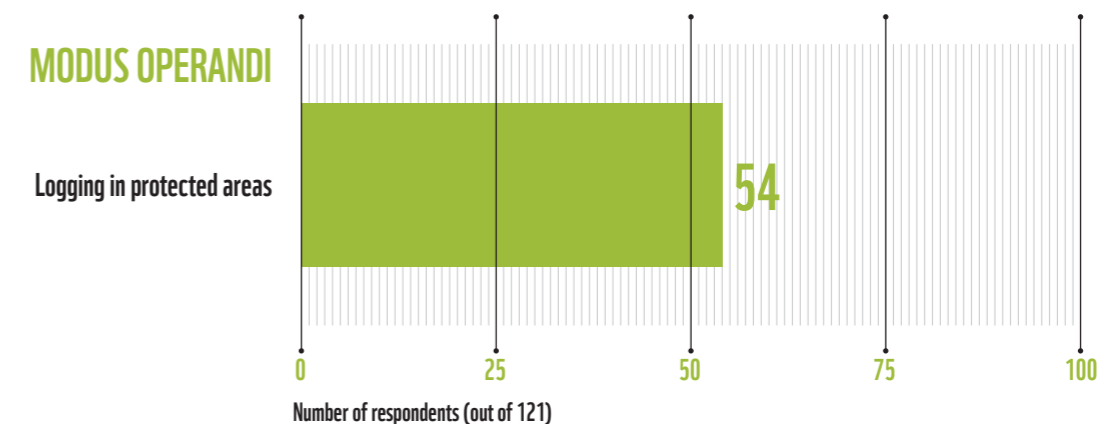
This *modus operandi* ranked first in Bulgaria, second in Romania and Ukraine and third in Slovakia.

Transport of the illegally harvested wood without a transport ticket.



This *modus operandi* ranked first in Romania, third in Ukraine and Bulgaria.

Logging in protected areas.



This *modus operandi* ranked first in Slovakia and third in Ukraine.

In addition, there are many other common and widespread *modus operandi*. This includes, for example:

- Logging in excess of permit or concessions quotas;
- Manipulations in calculating the volume of trees marked for felling/fraudulent forest inventories;
- Use of one transport ticket for more than one trip;
- Operating in violation of labour laws....

Outcomes also show that some *modus operandi* are more country specific as some are particularly known and/or widespread, such as the massive amount of unjustified sanitary logging in Ukrainian forests, used to illegally harvest timber, as well as in Slovakia, where the abusive use of sanitary felling was pointed out multiple times, vehicle overloading in Romania or the issuance of harvesting permits in Bulgaria, in violation of specific laws and administrative requirements when it comes to logging in Old Growth Forests, Natura 2000 zones and other territories under specific regimes.

According to respondents and participants of the workshop, *modus operandi* used to carry out illegal logging and related trade are plentiful and constantly evolving, but they are known and therefore could be tackled more effectively. In light of the similar *modus operandi* faced in all four countries, good practice and efficient solutions in one country could benefit all the others.

In terms of proportion, fewer respondents selected *modus operandi* belonging to the trade part, showing possibly that *modus operandi* for trade are lesser known, or that timber, at that point, has already been made legal and can be exported as such.

Additional details are available in national country reports.



PART 2: BELGIUM AND FRANCE

ANALYSIS: KEY TRENDS, COMMON PATTERNS AND MAIN GAPS

Results from the analysis show that, although there are national specificities, the nature of gaps, issues and obstacles that prevent a stringent and effective fight against forestry crime are to a large extent similar between Belgium and France.

In Belgium, government officials and authorities that participated in the surveys/workshops **recognise forestry crime as a significant threat to the environment** but also **as important relative to other areas of crime in terms of tax evasion and loss of revenue. This was also acknowledged by government officials and authorities in France**, but to a lesser extent.

There is a general sense that environmental crime, more specifically forestry crime, **is not being prioritised by authorities**. Also, **public communication** by authorities about environmental crime **is deficient**, while this is an important tool to increase political awareness, resourcing and funding.

At central level, outcomes show a lack of a clear strategy to combat forestry crime.

Results presented below are classified according to key categories for further clarity.



Workshop in Brussels, Belgium, February 2020

RESOURCES AND KNOWLEDGE

In both countries, there is a structural lack of staff along the enforcement chain given that investigations are time consuming and experience and capacity still need to be built up.

Major knowledge gaps exist on the legality frameworks and forestry practices in the large number of countries of origin from which Belgium and France source timber, despite the fact that Competent Authorities are engaging in further training.

Furthermore, practitioners are not equipped with protocols/frameworks or dedicated guidance on risk profiling and available scientific techniques that could support them in efficient checks and fraud detection.

Difficulties in taking samples and the cost of lab testing to identify timber species were identified as further challenges.

A clear framework is also missing, which could guide authorities in determining when a sanction should be issued and to define adequate fines to ensure dissuasive administrative penalties, which tend to be low compared to the maximum fines defined in national laws.

In addition, the Belgian federal police had, up until September 2020, no mandate on environmental crime linked to fauna and flora, which has taken away the skills and capacities to carry out international investigations into criminal networks.

LEGISLATIVE FRAMEWORK AND JUDICIARY

Results show that there are not enough prosecutors specialised in environment crime and there is a lack of awareness of and interest from judges in dealing with environmental crime, in addition to a shortage of training opportunities to strengthen capacities in order to successfully prosecute serious forestry crime cases.

Participants concurred in their view that the EUTR Due Diligence Obligation leaves too much room for interpretation before the court and thus offers poor grounds for prosecution.

Furthermore, in practice it is difficult for authorities and prosecutors to bring evidence on a case of illegal timber due to the difficulty of accessing information and collecting evidence in the country of origin.

From a judicial perspective, there is an apparent lack of success concerning serious forestry crime cases involving criminal activities. Related criminal offences in the case of illegal timber imports (tax fraud, document forgery) are not investigated.

As for now, the applicability of the EUTR and its transposition in Belgian and French laws seriously compromises its effectiveness, despite some rare but successful cases^{10,11}. The estimation by respondents and participants that the EUTR has had a neutral effect so far on hampering forestry crime in Belgium is a warning signal.

While the lack of effect of the EUTR likely also arises from the limited number of checks and near absence of administrative

sanctions, serious consequences for offenders are key to dissuading the illegal timber trade and successful court cases in other EU countries form a precedent, while administrative fines tend to be overlooked as a tool for effective and dissuasive sanctioning.

In other EU countries, successful court cases on EUTR breaches demonstrate that it is possible to define what constitutes acceptable evidence to prove the illegality of timber or demonstrate failure to carry out due diligence.

In Belgium, the legislative framework can present challenges considering that the burden of proof on failure to carry out due diligence by the operator relies on the public prosecutor when the case is being prosecuted under criminal law, which proves to be a heavy and time-consuming process.

In France too, if a case is being prosecuted under criminal law, collecting and preparing evidence to prove the “mental element” is a challenging and complex process. In addition, the apparent complexities of environmental laws are seen as an additional challenge for judges.

COOPERATION

Cooperation exists but does not rely on formal or institutionalised structures or agreements. As a result, there is no established and shared strategy, protocols and standards on how the different nodes of the enforcement chain should detect and combat forestry crime in both

countries. Authorities also miss counterpart contacts in countries of origin, which hinders acquisition of legal documents and information in the framework of investigations and makes it more challenging to exchange information on a legal basis (so the information can be used in court) with the country of origin and/or exporting country.

In both countries, respondents and participants indicated that cooperation along the enforcement chain is important but at the same time assessed the level of cooperation as fair to poor, identifying an obvious gap.

Accessing, aggregating and analysing the information on operators known to be suspects, traffic routes, cover-ups (such as wrong codes), *modus operandi*, timber species most commonly trafficked is either non-existent or insufficient. When information exists, circulation and dissemination of information is too slow between actors of the enforcement chain. In addition, such intelligence is not properly aggregated for the moment, making it very difficult to analyse trends and patterns.

Regarding law enforcement more specifically, there is no centralised EU database on seizures and offences and for information exchange (such as EU-Twix) for offences related to the EUTR or Forest Law Enforcement, Governance and Trade (FLEGT).

There are no dedicated task forces to bring together dedicated focal points from each administration in order to increase cooperation, exchange information and improve enforcement, although counterparts in other governmental bodies and authorities are/can be known.



German navy sailing boat 'Gorch Fock'. The teak wood to restore its decking was ordered from Myanmar in violation of German public procurement guidelines and imported in violation of EUTR requirements¹². Source: WWF Germany

10 clientearth.org/media/tcgd2g4j/eutr-news-april-to-june-2019-ce-en.pdf

11 lecommercedubois.org/actualites.php?id=427&PHPSESSID=f4n3oueh6ram1v5bbnrnel13j1

12 wwf.de/gorch-fock-case



While NGOs often have expertise and good networks in countries of origin, Belgian enforcement officials raised the difficulty of finding out about forestry laws and practices in those countries and obtaining information from counterparts.

In Belgium, respondents differed in their perception of the usefulness of information exchange and cooperation with NGOs. On the one hand, some respondents recognise NGO information as useful to start independent investigations, but others stressed sometimes deficient quality of information and barriers when information is not available in the public domain. In any case, the capacity of Belgian authorities to verify NGO leads or collect supplementary evidence seems limited.

In France, participants acknowledged the usefulness of information exchange and cooperation with NGOs, recognised NGO information as useful and usually quite robust and thorough to start independent investigations, but it was stressed that turning this information into something concrete to build a case and/or sanction an operator is difficult.

In both countries, legal and expert guidance is missing on how substantiated concerns from NGOs can be successfully used in court.

INVESTIGATION AND CHECKS

There is an absence of risk indicators (or too few of them) to help detect fraud mechanisms: at the customs level, guidance is missing on how to establish and develop improved risk analysis specifically for timber imports.

Legal exchange of information with countries of origin is often difficult and it is difficult for authorities and prosecutors in Belgium and France to bring evidence on a case of illegal timber due to the difficulty of accessing information and collecting evidence in the country of origin.

In both countries when there is a lack of proof to prosecute companies/operators breaching the EUTR, indications of fiscal fraud, money laundering or links to organised crime are currently not analysed despite the opportunities it brings to prosecute a company for offences connected to forestry crime.

In Belgium, despite its partial mandate on EUTR application, customs are lacking an approach/protocols to organise and carry out targeted investigations and contribute to the EUTR enforcement.

In France the problem is similar although customs do not have a specific mandate related to EUTR implementation and enforcement.

KEY ACTORS INVOLVED IN FORESTRY CRIME

In Belgium, answers show that respondents believe importers and traders are the main actors involved in forestry crime (before organised crime), knowingly or not, through the import of illegal timber. However, according to answers, suspicious operators, risky suppliers or forestry companies in countries of origin and most common trafficking routes have not been identified at a more detailed level. Thus, there does not seem to be a systematic identification of risky actors along Belgian timber supply chains that could enable targeted monitoring.

In France, based on the absence of answers to the question about known actors involved in forestry crime, it appears that suspicious operators/risky suppliers have not been identified and that there are gaps in terms of knowledge. There is no systematic identification of risky actors along French timber supply chains that could enable targeted monitoring.

TYPES OF FORESTRY CRIMES: *MODUS OPERANDI* AND OCCURRENCE

Many *modus operandi* are known by Belgian and to a lesser extent by French enforcement officials but only a handful of concrete cases linked to Belgium were listed to illustrate them and no concrete examples were given in France. This stands in contrast with the many alleged illegal timber cases raised by NGOs and the importance of Belgium and France as timber import hubs from countries with documented high levels of illegality in the forestry sector.

- Respondents were asked in the questionnaire to select *modus operandi* for forestry crime that they are aware of in their respective country. The list of different *modus operandi* was based both on a literature review as well as on WWF's experience.
- *Modus operandi* refers to the methods used to carry out forestry crime (please see the definition above) across the entire supply chain, from illegal harvest to transport and trade.

Results show some common patterns in terms of the *modus operandi* encountered in Belgium and France, but we could have anticipated more similarities considering that the circumstances in both countries are (very) similar.

In that sense, it is interesting to see that, for *modus operandi* listed under the category **Conditions for logging**, the two *modus operandi* chosen in France are different from the four chosen in Belgium. Differences also exist under the **Trade** category.

This is surprising considering that both countries source from the same high risk regions (Latin America, the Congo Basin and China). This could show discrepancies (and possibly limited/partial) knowledge by enforcement chains.

Below is a list of the *modus operandi* selected/chosen by respondents and participants in both countries. Further *modus operandi* as well as examples reported by respondents are available in national reports.

Taxes, fees & royalties

- Manipulation in the grading of marked trees

Trade

- Importation of CITES listed timber species without or with forged CITES permits;
- Importation of timber without proper documents (such as licence/permit of company involved in import and export, fees);
- False declaration on product types to bypass/violate export bans - Import of timber under a form which is banned in the country of origin.



CONCLUSION

Environmental crime is the third largest crime sector in the world, and forestry crime accounts for by far the biggest share of environmental crime, with US\$51-152 billion.

Due to the increased profitability of wood and its by-products, crime involving the world's forests has become even more prominent. The sector is heavily affected by organized crime, high profit and low risks. The nature of forestry crime is becoming increasingly organised, sophisticated and transnational.

The growing issue of forestry crime has been known and documented for many years. Yet still, actions taken against illegal logging at national level in the EU do not reflect the scale of the problem. Addressing forestry crime is closely linked to promoting economic viability, political stability and improving public health and national security.

The “summary of the gap analysis” of this EU funded project supports and builds on the findings of previous studies and publications based on stakeholder input from the six focus countries. The reasons why the fight against illegal logging has been ineffective and failed so far are manifold and are described in detail in the project publications. Some higher-level reasons that became clear during the project, and that are linked somehow to many of the described obstacles, are the absence of political willingness, the silent malaise of corruption and the existence of non-dissuasive penalties¹⁸.

Results from the gap analysis indicated paths for reflection and action that were used to draw up detailed recommendations in a separate document on how to strengthen law enforcement against forestry crime in the EU. The project also began the process of training stakeholders from the enforcement chain, as well as from Civil Society Organisations, and building up networks between them. Together with the “recommendations” from the project, this EU summary report is intended to help authorities, prosecutors, judges and Civil Society Organisations to better understand modus operandi, mechanisms of forestry crime and wood trade with a focus on both domestic timber production and import of timber.

Participants in the project recognised that much greater awareness by political decision-makers, institutions and civil society is needed about forestry crime and its links to serious organised crime. Appropriate measures to respond to this threat are required, including a global focus on forestry crime at the higher level, stronger financial support and a multidisciplinary approach, so that enforcement authorities can stay one step ahead of organised crime networks.

Is there some light at the end of the tunnel? According to some stakeholders: yes – but things need to change and improve considerably. The “recommendations” document of the project (www.wwf.de/eu-forest-crime-initiative) give encouragement on how to achieve this.



18 Further information on weak implementation of the EUTR was described in a WWF Report at the end of 2019- “WWF Enforcement Review of the EU Timber Regulation”.

ANNEXES

DEFINITIONS

Civic Space

The place civil society actors occupy within society; the environment and framework in which civil society operates; and the relationships among civil society actors, the State, private sector and the general public¹³.

Corruption

There is no one single definition of corruption. According to INTERPOL, corruption is defined as:

- the misuse of entrusted power for private gain, or
- any course of action or failure to act by individuals or organisations, public or private, in violation of a duty or obligation under law or trust for profit or gain.

The annual global cost of corruption in the forestry sector is estimated to be in the order of 29 billion dollars. Bribery is reported as the most common form of corruption in the forestry sector. Other forms of corruption, in order from most to least common after bribery, are the following: fraud, abuse of office, extortion, cronyism and nepotism¹⁴.

Forensic methods

Innovative scientific testing methods in laboratories now make it possible to detect certain types of fraud/violations of law, for example in the context of the EUTR. Forensic methods make it possible to identify timber species.

These methods involve properties of the wood that are firmly ingrained in the wood and thus impossible to manipulate. Several forensic methods exist, the most common being:

- **Wood anatomy testing :** An established method routinely used to identify wood types for solid woods, veneers, plywood, etc. It consists of a macroscopic and microscopic examination during which the genus and, in many cases, the species of wood samples, can be determined precisely based on their anatomical structure.
- **Isotopic testing:** Isotopes of common elements such as hydrogen, oxygen, nitrogen, sulphur and carbon occur in different proportions in different geographic areas and are

absorbed by plants and incorporated into their structure. By analysing the proportions of the isotopes in plants, it is possible to determine where they were grown as long as reference material is available.

- **DNA testing:** DNA analysis compared genetic sequences extracted from timber samples against a genetic reference database. DNA testing can be used for population, species or individual log identification. Once a wood's species-specific markers have been identified, the genetics can be used to determine its species unequivocally.

Forestry crime

According to INTERPOL, “Forestry crime” is an umbrella term to describe criminal activity (carried out

in contravention of national or international law) in the forestry sector covering the entire supply

chain, from harvest (illegal logging) and transportation to processing, selling, trading, importing and exporting. It also refers to those criminal offences that facilitate such activity, including document fraud, corruption and money laundering¹⁵.

Modus operandi

Modus operandi refers to the methods used to carry out forestry crime (please see the definition above) across the entire supply chain, from illegal harvest to transport and trade.

Offence

For the purposes of this report, the term “offence” includes all activities that may be subject to criminal or administrative penalties.

Organised crime

According to the United Nations Convention against Transnational Organized Crime (2004)¹⁶:

- a. “Organised criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more

13 Source: OHCHR (2014). A Practical Guide for Civil Society: Civil Society Space and the United Nations Human Rights System.

14 Uncovering the risks of corruption in the forestry sector, INTERPOL (2016) 20 pages.

* Please note that, due to the sanitary situation, the workshop took place online, and was split into two sessions.

15 <https://www.interpol.int/content/download/5149/file/Global%20Forestry%20Enforcement%20Prospectus%202019-web.pdf>

16 https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf

serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

- b. “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.

Poverty-related forest crime

Organised crime is different to poverty-related forest crime¹⁷. The United Nation Office on Drugs and Crime defines that “although actions in the illegal activities are linked (for example, poor farmers that are employed as harvesters and suppliers by traffickers), it is still critical to differentiate between activities driven by need and poverty, and those driven

by greed and the lure for high profit. In developing countries, poverty can be a factor that drives wildlife and forest offences (...). In this connection, formal criminalization can be harmful for people depending on wildlife and forest resources for their livelihoods”.

Sanitary logging

Sanitary logging refers to the practice of harvesting dead or diseased trees in order to prevent the spread of disease or pests to other parts of the forest . It is a standardized tool to manage economical forests producing timber for commercial use, under certain conditions defined by laws. It can be either continuous or selective. Sanitary logging is sometimes misused as a coverage for commercial and illegal activities linked to forestry crime.

KEY FIGURES ON WORKSHOPS AND SURVEYS

COUNTRY	SURVEYS	WORKSHOPS
	NUMBER OF REPLIES RECEIVED	NUMBER OF PARTICIPANTS WHO ATTENDED
Belgium	Enforcement chain: 6 NGOs/CSOs: 1	30
Bulgaria	Enforcement chain: 14 NGOs/CSOs: 12	19
France	Enforcement chain: 2 NGOs/CSOs: 0	6
Romania	Enforcement chain: 48 NGOs/CSOs: 1	69
Slovakia	Enforcement chain: 27 NGOs/CSOs: 5	21
Ukraine	Enforcement chain: 13 NGOs/CSOs: 1	49
TOTAL	Enforcement chain: 110 NGOs/CSOs: 20	194

17 unodc.org/documents/Wildlife/Toolkit_e.pdf



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TO STOP THE DEGRADATION
OF THE PLANET'S NATURAL
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