

EXTENSION OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE'S COMPETENCE TO ENVIRONMENTAL CRIME: IS THE CURRENT MODEL SUFFICIENT?¹

ROZŠÍRENIE PRÁVOMOCI EURÓPSKEJ PROKURATÚRY NA ENVIRONMENTÁLNU KRIMINALITU: JE SÚČASNÝ MODEL POSTAČUJÚCI?

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ABSTRACT

The article addresses the issue of extending the competence of the European Public Prosecutor's Office to environmental crime within the context of the fragmented system of criminal law enforcement in the European Union. It is based on an analysis of environmental crime as a specific form of cross-border criminality that exceeds the capacity of individual Member States to respond effectively. The author examines the current competence framework of the European Public Prosecutor's Office, identifies its limitations and assesses its ability to respond to emerging forms of criminality. Attention is also given to the problems of fragmented enforcement and conflicts of jurisdiction. On the basis of this analysis, the article presents models for the possible extension of the EPPO's competence and evaluates their implications, including from a national perspective with a focus on the Slovak Republic. The article concludes with de lege ferenda proposals aimed at enhancing the effectiveness and coherence of environmental criminal law enforcement at the level of the European Union.

ABSTRAKT

Príspevok sa zaoberá otázkou rozšírenia právomoci Európskej prokuratúry na environmentálnu kriminalitu v kontexte fragmentovaného systému presadzovania trestného práva v Európskej únii. Východiskom je analýza environmentálnej kriminality ako špecifického druhu cezhraničnej trestnej činnosti, ktorá presahuje možnosti efektívneho riešenia na úrovni jednotlivých členských štátov. Autor skúma súčasný kompetenčný rámec Európskej prokuratúry, identifikuje jeho limity a hodnotí jeho schopnosť reagovať na nové formy kriminality. Pozornosť je venovaná aj problémom fragmentácie presadzovania práva a konfliktom jurisdikcie. Na základe analýzy sú predstavené modely možného rozšírenia právomoci Európskej prokuratúry a ich implikácie, vrátane národného pohľadu so zameraním na Slovenskú republiku. Záverom autor formuluje návrhy de lege ferenda smerujúce k efektívnejšiemu a koherentnejšiemu presadzovaniu environmentálneho trestného práva na úrovni Európskej únie.

I. INTRODUCTION

The increasing scale and complexity of environmental crime within the European Union (hereinafter "EU") have exposed significant structural deficiencies in the existing framework

¹ The contribution was elaborated as a part of the research project VEGA No. 1/0248/26 'Perspectives on Enhancing Judicial Co-operation in Criminal Matters through Transnational Units' [Slovak: Perspektívy zefektívnenia justičnej spolupráce v trestných veciach prostredníctvom nadnárodných jednotiek].

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of criminal law enforcement. Environmental offences, particularly those with a cross-border dimension, frequently transcend the territorial and jurisdictional limits of individual Member States, thereby challenging the effectiveness of decentralised enforcement mechanisms. At the same time, the progressive development of European criminal law, especially in the field of the protection of the EU's financial interests, has led to the establishment of new supranational instruments, most notably the European Public Prosecutor's Office (hereinafter "EPPO"). However, the current mandate of this body remains limited in scope, raising questions as to its capacity to address emerging forms of transnational criminality, including environmental crime.

Against this background, the present article examines the potential extension of the competence of the EPPO to environmental crime. The central research question addressed in this study is whether the current model of the EPPO, based on a limited material competence and a decentralised operational structure, is sufficient to ensure effective enforcement in the field of environmental protection, or whether further integration at the European level is required. The analysis is situated within the broader context of fragmentation in EU criminal justice and the evolving relationship between national sovereignty and supranational enforcement mechanisms. The primary objective of the article is to assess the legal, institutional and practical implications of extending the EPPO's mandate beyond offences affecting the financial interests of the EU. In doing so, the article seeks to identify the key limitations of the existing framework, evaluate possible models of competence expansion, and consider their compatibility with fundamental principles of EU law, including the principle of conferral, subsidiarity and respect for national legal systems. Particular attention is paid to the specific nature of environmental crime as a form of transnational criminality with both ecological and economic consequences.

From a methodological perspective, the article is based on a doctrinal analysis of primary and secondary sources of EU law, including relevant Treaty provisions, legislative instruments and case-law where applicable. This is complemented by a critical examination of academic literature in the field of European criminal law and environmental law, as well as selected policy documents of EU institutions. The analytical approach is further supported by comparative considerations, particularly with regard to the interaction between national and supranational levels of enforcement. The structure of the article reflects these objectives. Following the introductory remarks, Section II examines the nature and characteristics of environmental crime within the EU. Section III outlines the current competence framework of the EPPO, while Section IV addresses the broader issue of fragmentation in EU criminal justice. Section V focuses on the legal challenges associated with extending the EPPO's mandate. Section VI proposes and evaluates different models of competence expansion, which are subsequently analysed from a national perspective in Section VII, with a particular focus on the Slovak Republic. Finally, Section VIII formulates *de lege ferenda* proposals aimed at enhancing the effectiveness and coherence of enforcement in this field.

II. ENVIRONMENTAL CRIME AS A CROSS-BORDER CRIMINAL PHENOMENON

1. Definition and Legal Nature of Environmental Crime

Environmental crime represents a specific category of criminal conduct directed against environmental components such as air, water, soil, biodiversity and ecosystems, typically characterised by its regulatory complexity and strong dependence on administrative law frameworks. Unlike traditional forms of criminality, environmental offences often arise at the intersection of criminal law and environmental regulation, which contributes to their fragmented legal treatment across jurisdictions. At the level of the EU, environmental crime has been progressively harmonised, particularly through secondary legislation establishing

minimum rules on criminalisation.³ These *minimum rules* are based primarily on Article 83(2) of the Treaty on the Functioning of the European Union⁴, which allows the European Union to establish minimum rules concerning the definition of criminal offences and sanctions where such approximation is essential to ensure the effective implementation of a Union policy that has been subject to harmonisation measures. This harmonisation has evolved from *Directive 2008/99/EC on the protection of the environment through criminal law*⁵ to the recently adopted *Directive (EU) 2024/1203 on the protection of the environment through criminal law*⁶, which significantly broadens the catalogue of environmental offences and strengthens requirements concerning sanctions, investigative tools and enforcement mechanisms. However, despite these efforts, the legal qualification of environmental offences remains partially divergent among Member States, reflecting differences in national legal traditions and enforcement priorities. This divergence significantly complicates both detection and prosecution.

Environmental crime may be understood not only as a violation of environmental norms, but also as conduct endangering collective goods of supranational relevance. In this sense, the protection of the environment transcends purely national interests and increasingly constitutes a shared European value, which justifies enhanced forms of supranational intervention. A defining feature of environmental crime is its inherently cross-border nature. Illegal activities such as waste trafficking, illegal logging, wildlife trafficking or pollution frequently involve multiple jurisdictions, either in terms of the location of criminal conduct or its effects. This transnational dimension significantly limits the effectiveness of purely national enforcement mechanisms. Environmental crime is also closely linked to organised crime structures. Criminal networks exploit regulatory disparities between Member States, differences in enforcement intensity and gaps in cross-border cooperation. These actors benefit from relatively low detection rates and comparatively lenient sanctions, which render environmental crime a highly profitable and low-risk activity.⁷

The cross-border character of such offences reflects broader structural challenges identified in European criminal justice cooperation. National authorities are often unable to adequately respond to criminality exceeding their territorial scope, which necessitates enhanced coordination and, potentially, centralised enforcement mechanisms. Moreover, the development of the internal market, including the free movement of goods and services, has unintentionally facilitated certain forms of environmental crime, particularly in areas such as waste shipment. This further strengthens the argument that environmental crime cannot be effectively addressed without a coordinated European response.⁸

³ KLIP, André. *European Criminal Law: An Integrative Approach*. 4th ed. Cambridge – Antwerp : Intersentia, 2021, s. 168 (674 s.). ISBN 978-1-78068-968-5; SATZGER, Helmut. *International and European Criminal Law*. 2nd ed. München : C.H. Beck, 2018, s. 219 (342 s.). ISBN 978-3-406-69475-2; HECKER, Bernd. *Europäisches Strafrecht*. 7th ed. Berlin – Heidelberg : Springer, 2024, s. 203 (542 s.). ISBN 978-3-662-47368-9; KLIMEK, Libor. *Základy trestného práva Európskej únie*. Bratislava : Wolters Kluwer, 2017, s. 115 a nasl. (264 s.). ISBN 978-80-8168-601-6.

⁴ Zmluva o fungovaní Európskej únie (konsolidované znenie), Ú. v. EÚ C 326, 26.10.2012, s. 47 – 390. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

⁵ Smernica Európskeho parlamentu a Rady 2008/99/ES z 19. novembra 2008 o ochrane životného prostredia prostredníctvom trestného práva, Ú. v. EÚ L 328, 6.12.2008, s. 28 – 37. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/eli/dir/2008/99/oj/eng>.

⁶ Smernica Európskeho parlamentu a Rady (EÚ) 2024/1203 z 11. apríla 2024 o ochrane životného prostredia prostredníctvom trestného práva a o nahradení smerníc 2008/99/ES a 2009/123/ES, Ú. v. EÚ L, 2024/1203, 30.4.2024. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/eli/dir/2024/1203/oj/eng>.

⁷ COMTE, Françoise. Environmental Crime and the Police in Europe: A Panorama and Possible Paths for Future Action. In: *European Energy and Environmental Law Review*, 2006, vol. 15, no. 7, s. 190 – 231. DOI 10.54648/EELR2006022.

⁸ COMTE, Françoise. Environmental Crime and the Police in Europe: A Panorama and Possible Paths for Future Action. In: *European Energy and Environmental Law Review*, 2006, vol. 15, no. 7, s. 190 – 231. DOI 10.54648/EELR2006022; RABBI, Mohammad Fazle. Unveiling Environmental Crime Trends and Intensity in the EU Countries Through a Sustainability Lens. In: *European Journal on Criminal Policy and Research*, 2025, vol. 31, s. 637 – 665. DOI 10.1007/s10610-024-09607-8; PEREIRA, Ricardo. A Critical Evaluation of the New EU Environmental Crime Directive 2024/1203. In: *Eucrim*, 2024, vol. 19, no. 2, s. 158 – 163. DOI 10.30709/eucrim-2024-009; GARRUTO, Luigi Igino – GRASSIN, Selina. Fighting Waste

Although environmental crime is not formally included within the material competence of the *European Public Prosecutor's Office*⁹ (also known as EPPO), its impact on the financial interests of the EU is increasingly recognised. Environmental offences may directly or indirectly affect EU funds, for example through the misuse of subsidies, fraud in environmental projects or costs associated with remediation and environmental damage. In this context, environmental crime may be conceptualised as a “hybrid” form of criminality, combining elements of traditional environmental harm with economic and financial consequences. This perspective opens the possibility of interpreting certain environmental offences as falling within the broader framework of crimes affecting the financial interests of the EU, as defined in relevant EU legislation.¹⁰ Furthermore, the failure to effectively combat environmental crime may result in substantial financial losses for the EU, including the depletion of natural resources, increased public expenditure and distortion of lawful economic activities. These consequences reinforce the need to reassess the current scope of EU criminal law instruments.

From the perspective of institutional design, the progressive harmonisation of environmental criminal law reveals a structural asymmetry within the EU enforcement framework. While substantive criminal law has become increasingly Europeanised through common definitions of offences and sanctions, investigation and prosecution remain predominantly national. This divergence raises the question whether the current decentralised enforcement model remains adequate for a category of criminality that is both highly harmonised and inherently transnational. The issue is particularly relevant when considering the future scope of the EPPO's competence.

2. Enforcement Challenges and the Need for a Supranational Enforcement Approach

The enforcement of environmental criminal law within the EU is characterised by a high degree of fragmentation. Competence for investigation and prosecution remains primarily at the national level, while EU bodies such as *Europol*¹¹ and *Eurojust*¹² provide only supportive and coordinating functions without direct prosecutorial powers. Existing mechanisms of judicial cooperation are often insufficient to ensure effective prosecution of complex cross-border cases, particularly where multiple jurisdictions are involved. The absence of a centralised prosecutorial authority for environmental crime may lead to parallel or even conflicting proceedings. The establishment of the EPPO has partially addressed these issues in relation to crimes affecting the financial interests of the EU. However, its current mandate does not extend to environmental crime, despite the existence of legal mechanisms allowing for such an extension in the future.

The cumulative effect of the above-mentioned factors – cross-border nature, involvement of organised crime, financial implications and fragmented enforcement – indicates

Trafficking in the EU: A Stronger Role for the European Anti-Fraud Office. In: *Eucrim*, 2024, vol. 19, no. 2, s. 143 – 145. DOI 10.30709/eucrim-2024-009.

⁹ Nariadenie Rady (EÚ) 2017/1939 z 12. októbra 2017, ktorým sa vykonáva posilnená spolupráca na zriadení Európskej prokuratúry (EPPO), Ú. v. EÚ L 283, 31.10.2017, s. 1 – 71. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/eli/reg/2017/1939/oj/eng>.

¹⁰ *Environmental crime affecting EU financial interests, the economic recovery and the EU's Green Deal objectives*. Brussels: European Parliament, 2022 (PE 737.869). [online] [cit. 2025-10-09]. Dostupné online: [https://www.europarl.europa.eu/RegData/etudes/STUD/2022/737869/IPOL_STU\(2022\)737869_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/737869/IPOL_STU(2022)737869_EN.pdf); OLSEN LUNDH, Christina. The Revised EU Environmental Crime Directive. In: *Eucrim*, 2024, vol. 19, no. 2, s. 164 – 172. DOI 10.30709/eucrim-2024-013.

¹¹ Nariadenie Európskeho parlamentu a Rady (EÚ) 2016/794 z 11. mája 2016 o Agentúre Európskej únie pre spoluprácu v oblasti presadzovania práva (Europol), Ú. v. EÚ L 135, 24.5.2016, s. 53 – 114. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02016R0794-20260111>.

¹² Nariadenie Európskeho parlamentu a Rady (EÚ) 2018/1727 z 14. novembra 2018 o Agentúre Európskej únie pre justičnú spoluprácu v trestných veciach (Eurojust) a o nahradení a zrušení rozhodnutia Rady 2002/187/SVV, Ú. v. EÚ L 295, 21.11.2018, s. 138 – 183. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02018R1727-20251104>.

that environmental crime constitutes a category of criminality that is particularly suited for supranational intervention. The *principle of subsidiarity*, which underpins the distribution of competences within the EU, suggests that action at the EU level is justified where objectives cannot be sufficiently achieved by Member States acting alone.¹³ The adoption of Directive (EU) 2024/1203 on the protection of the environment through criminal law itself reflects the Union legislator's assessment that environmental crime can no longer be effectively addressed solely through divergent national approaches and therefore requires a higher degree of legal and institutional coordination at the European level. In the case of environmental crime, this condition appears to be fulfilled, as national enforcement mechanisms are often unable to address its transnational complexity effectively. At the same time, any extension of supranational competence must respect the limits imposed by the principle of conferral and the sensitive nature of criminal jurisdiction as a core element of state sovereignty. The establishment of the EPPO itself illustrates the political and legal challenges associated with transferring prosecutorial powers to the European level. In light of these considerations, environmental crime represents not only a pressing policy issue but also a significant legal challenge, raising fundamental questions regarding the future development of European criminal law and the potential expansion of supranational prosecutorial mechanisms.

III. LEGAL BASIS OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE AND ITS COMPETENCE

The European Public Prosecutor's Office (EPPO) was formally established by *Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office*¹⁴. It was established on the basis of Article 86 of the *Treaty on the Functioning of the European Union*¹⁵, which provides the legal foundation for the creation of a supranational prosecutorial authority within the EU legal order. This provision enables the establishment of the EPPO through enhanced cooperation, reflecting the absence of unanimous political consensus among Member States. Pursuant to Article 86(1) of the Treaty on the Functioning of the European Union, the EPPO is entrusted with combating criminal offences affecting the financial interests of the EU. At the same time, Article 86(4) of the Treaty on the Functioning of the European Union explicitly allows for a future extension of its competence to include serious crime having a cross-border dimension, subject to a unanimous decision of the European Council.¹⁶ This provision constitutes a crucial normative basis for considering the potential inclusion of environmental crime within the EPPO's mandate.

¹³ CRAIG, Paul – DE BÚRCA, Gráinne. *EU Law: Text, Cases, and Materials*. 5th ed. Oxford : Oxford University Press, s. 121 a nasl. (1155 s.). ISBN 978-0-19-957699-9; BARNARD, Catherine – PEERS, Steve (eds.). *European Union Law*. 7th ed. Oxford : Oxford University Press, s. 101 a nasl. (901 s.). ISBN 978-0-19-885575-0.

¹⁴ Nariadenie Rady (EÚ) 2017/1939 z 12. októbra 2017, ktorým sa vykonáva posilnená spolupráca na zriadení Európskej prokuratúry (EPPO), Ú. v. EÚ L 283, 31.10.2017, s. 1 – 71. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/eli/reg/2017/1939/oj/eng>.

¹⁵ Zmluva o fungovaní Európskej únie (konsolidované znenie), Ú. v. EÚ C 326, 26.10.2012, s. 47 – 390. [online] [cit. 2025-10-09]. Dostupné online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

¹⁶ BLANKE, Hermann-Josef – MANGIAMELI, Stelio (eds.). *Treaty on the Functioning of the European Union – A Commentary. Volume I: Preamble, Articles 1–89*. Cham : Springer, s. 1623 a nasl. (1739 s.). ISBN 978-3-030-43511-0; BACHMAIER WINTER, Lorena (ed.). *The European Public Prosecutor's Office: The Challenges Ahead*. Cham : Springer, 2018, s. 65 (289 s.). ISBN 978-3-319-93915-5; MEIJ, A.W.H. – ERKELENS, L.H. – PAWLIK, M. *The European Public Prosecutor's Office: An Extended Arm Or a Two-Headed Dragon?* The Hague : T.M.C. Asser Press, 2014, s. 41 a nasl. (285 s.). ISBN 978-94-6265-035-0; KLÁTIK, Jaroslav – DESET, Miloš – KLIMEK, Libor. *Európská prokuratúra a perspektívy jej činnosti pri ochrane finančných záujmov EÚ*. Prague : Leges, 2019, s. 17 (144 s.). ISBN 978-80-7502-407-7; MITSILEGAS, Valsamis – GIUFFRIDA, Fabio. *The Role of EU Agencies in Fighting Transnational Environmental Crime: New Challenges for Eurojust and Europol*. Leiden – Boston : Brill, 2017, s. 119 (160 s.). ISBN 978-90-04-34155-5; HERNÁNDEZ LÓPEZ, Alejandro. *Conflicts of Criminal Jurisdiction and Transfer of Proceedings in the EU*. Cham : Springer, 2022, s. 92 (217 s.). ISBN 978-3-031-15691-5; HERRNFELD, Hans-Holger – BRODOWSKI, Dominik – BURCHARD, Christoph. *European Public Prosecutor's Office: Article-by-Article Commentary*. Baden-Baden : Nomos, 2021 (820 s.). ISBN 978-3-8487-4884-6.

The EPPO embodies a hybrid model of European prosecution situated between *intergovernmental cooperation* and *supranational integration*, reflecting an inherent tension between the effectiveness of EU-level enforcement and the preservation of national sovereignty in criminal matters.¹⁷

The material competence (*ratione materiae*) of the EPPO is currently limited to criminal offences affecting the financial interests of the EU, as further specified in *Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law*¹⁸ (also known as PIF Directive). These offences primarily include fraud, corruption, money laundering and cross-border VAT fraud exceeding the relevant thresholds. This limitation reflects the original rationale behind the creation of the EPPO, namely the need to ensure more effective protection of the EU budget, which had previously suffered from insufficient enforcement at the national level. The fragmentation of enforcement mechanisms and the lack of direct prosecutorial powers at the EU level were identified as key deficiencies in the existing system. Although the EPPO's competence is formally confined to PIF crimes (criminal offences affecting the financial interests of the EU, such as fraud, corruption, money laundering, and serious cross-border VAT fraud), the legal framework allows for a certain degree of interpretative flexibility. In particular, offences that are inextricably linked to crimes affecting the financial interests of the EU may fall within the EPPO's jurisdiction, provided that they are closely connected to the main offence. Nevertheless, environmental crime, as such, does not currently fall within the EPPO's material competence, unless it can be directly linked to financial damage to the EU budget. This creates a structural gap, especially in cases where environmental harm produces indirect or long-term financial consequences for the EU.

The EPPO is characterised by a hybrid institutional structure combining *supranational* and *national* elements. It operates as an independent body of the EU with its own legal personality, while simultaneously relying on national judicial systems for the execution of its powers. This structure is typically described as decentralised, consisting of a central level and a national level. The central level includes the European Chief Prosecutor, the College, Permanent Chambers and European Prosecutors, while the national level is composed of European Delegated Prosecutors operating within Member States. Such a model reflects a compromise between the need for effective supranational prosecution and the preservation of national sovereignty in criminal matters. The EPPO does not replace national prosecution systems but rather complements them by exercising delegated powers within domestic legal frameworks.¹⁹ At the same time, this hybrid structure introduces a number of operational complexities, particularly regarding the coordination between central and national levels, as well as the dual role of European Delegated Prosecutors, who act both as EU and national authorities. The issue of judicial review represents a crucial safeguard within the EPPO framework, as its decisions to initiate criminal proceedings may significantly affect fundamental rights and therefore require effective judicial control mechanisms at both national and EU levels.²⁰

¹⁷ MITSILEGAS, Valsamis. European Prosecution between Cooperation and Integration: The European Public Prosecutor's Office and the Rule of Law. In: *Maastricht Journal of European and Comparative Law*, 2021, vol. 28, no. 2, s. 245 – 264. DOI 10.1177/1023263X211005933.

¹⁸ Smernica Európskeho parlamentu a Rady (EÚ) 2017/1371 z 5. júla 2017 o boji proti podvodom, ktoré porušujú finančné záujmy Únie, prostredníctvom trestného práva, Ú. v. EÚ L 198, 28.7.2017, s. 29 – 41.

¹⁹ BACHMAIER WINTER, Lorena (ed.). *The European Public Prosecutor's Office: The Challenges Ahead*. Cham : Springer, 2018, s. 65 (289 s.). ISBN 978-3-319-93915-5; MEIJ, A.W.H. – ERKELENS, L.H. – PAWLIK, M. *The European Public Prosecutor's Office: An Extended Arm Or a Two-Headed Dragon?* The Hague : T.M.C. Asser Press, 2014, s. 41 a nasl. (285 s.). ISBN 978-94-6265-035-0; KOŘÍNEK, Štěpán. Evropský veřejný žalobce. In: *Acta Universitatis Carolinae Iuridica*, 2019, vol. 65, no. 4, s. 9 – 25. DOI 10.14712/23366478.2019.36.

²⁰ NOVOKMET, Ante. The European Public Prosecutor's Office and the Judicial Review of Criminal Prosecution. In: *New Journal of European Criminal Law*, 2017, vol. 8, no. 3, s. 374 – 402. DOI 10.1177/2032284417729934.

The territorial competence (*ratione loci*) of the EPPO extends to offences committed wholly or partially within the territory of participating Member States, as well as to cases where the offender is a national of such a Member State or where the damage occurs within the EU. This broad territorial scope reflects the transnational nature of the crimes falling within the EPPO's jurisdiction. However, the application of territorial competence may give rise to conflicts of jurisdiction, particularly in cases involving both participating and non-participating Member States, due to the mechanism of enhanced cooperation.

In terms of personal competence (*ratione personae*), the EPPO has jurisdiction over natural persons suspected of committing criminal offences within its material scope. The prosecution of legal persons depends on national law, as EU criminal law does not fully harmonise corporate liability.

The combination of these jurisdictional elements illustrates the complexity of the EPPO's competence framework and highlights the challenges associated with its practical application in cross-border cases. Despite its innovative character, the current competence framework of the EPPO is subject to several important limitations. First, its material competence is narrowly defined and does not cover other forms of serious cross-border criminality, including environmental crime, unless a direct link to the EU's financial interests can be established. Second, the use of enhanced cooperation results in a fragmented territorial scope, as not all Member States participate in the EPPO. This may complicate investigations involving non-participating states and reduce the overall effectiveness of the system. Third, the hybrid institutional model, while offering certain advantages, also creates coordination challenges and potential tensions between EU-level and national authorities. These issues are further exacerbated by the sensitive nature of criminal jurisdiction as a core element of state sovereignty. Finally, although Article 86(4) of the Treaty on the Functioning of the European Union provides a legal pathway for extending the EPPO's competence, such an extension requires unanimous political agreement, which may be difficult to achieve in practice.

These limitations are particularly relevant in the context of environmental crime, where the absence of a centralised prosecutorial authority at the EU level continues to hinder effective enforcement and coordination.

IV. FRAGMENTATION OF ENFORCEMENT IN EU CRIMINAL JUSTICE

1. Structural Fragmentation of Criminal Law Enforcement in the EU

The system of criminal law enforcement within the EU is characterised by a fundamentally fragmented structure, rooted in the principle that criminal jurisdiction remains primarily within the competence of Member States. Despite the progressive development of European criminal law, including *harmonisation* measures and instruments of judicial cooperation, enforcement powers continue to be exercised predominantly at the national level. This structural fragmentation is particularly visible in the division between normative harmonisation and institutional enforcement. While the EU has increasingly adopted legislative measures defining criminal offences and sanctions, the responsibility for investigation and prosecution has largely remained decentralised. As a result, the effectiveness of enforcement varies significantly across Member States, depending on their institutional capacities, legal traditions and enforcement priorities.²¹ The persistence of this fragmented model reflects the sensitivity of criminal law as a core domain of state sovereignty. As highlighted in the literature,

²¹ KLIP, André. *European Criminal Law: An Integrative Approach*. 4th ed. Cambridge – Antwerp : Intersentia, 2021, s. 103 (674 s.). ISBN 978-1-78068-968-5; SATZGER, Helmut. *International and European Criminal Law*. 2nd ed. München : C.H. Beck, 2018, s. 179 (342 s.). ISBN 978-3-406-69475-2; AMBOS, Kai. *European Criminal Law*. Cambridge : Cambridge University Press, 2018, s. 160 (663 s.). ISBN 978-1-107-11969-7; HECKER, Bernd. *Europäisches Strafrecht*. 7th ed. Berlin – Heidelberg : Springer, 2024, s. 155 (542 s.). ISBN 978-3-662-47368-9; SCHMEER, Laura. *The European Public Prosecutor's Office: From Sovereignty to Supranationalism*. Cham : Springer, 2025, s. 137 (264 s.). ISBN 978-3-031-75550-7.

the transfer of prosecutorial powers to the supranational level has historically encountered strong political resistance, leading to the adoption of compromise solutions such as the establishment of the EPPO through enhanced cooperation rather than a fully integrated model.

Within the current framework of EU criminal justice, *Eurojust* and *Europol* play key roles in facilitating cooperation among national authorities. However, their competences are limited to coordination, support and information exchange, without direct powers to conduct criminal investigations or prosecutions. Eurojust acts as a judicial cooperation body, assisting national prosecutors in coordinating cross-border investigations and resolving conflicts of jurisdiction. Europol, on the other hand, serves primarily as a law enforcement agency focused on intelligence gathering, analysis and operational support. Despite their importance, both institutions lack autonomous prosecutorial authority. This limitation has been widely recognised as a structural weakness of the EU criminal justice system, particularly in cases involving complex cross-border criminality. As noted by the European Commission and academic commentators, the absence of direct intervention powers restricts their ability to ensure effective and coherent enforcement. Consequently, while Eurojust and Europol contribute to improving coordination, they cannot overcome the fundamental fragmentation resulting from the decentralised nature of enforcement. Despite their important coordinating role, EU agencies such as Eurojust and Europol do not possess autonomous prosecutorial powers, and their potential in combating transnational environmental crime remains only partially utilised, which limits the overall effectiveness of the EU enforcement framework.²²

2. The EPPO as a Partial Response to Fragmentation

The establishment of the EPPO represents a significant step towards addressing the fragmentation of criminal law enforcement within the EU. By introducing a body with direct prosecutorial powers at the EU level, the EPPO departs from the traditional model based solely on intergovernmental cooperation. The EPPO is capable of conducting investigations, initiating prosecutions and bringing cases before national courts, thereby overcoming some of the limitations associated with coordination-based mechanisms. In particular, it allows for a more integrated approach to cases involving multiple jurisdictions, reducing the need for complex mutual legal assistance procedures. However, the EPPO's role in mitigating fragmentation remains limited in scope. Its competence is confined to offences affecting the financial interests of the EU, leaving other forms of serious cross-border crime, including environmental crime, outside its jurisdiction.²³ Moreover, the EPPO itself operates within a decentralised framework, relying on national legal systems and authorities for the execution of its powers. At the same time, it should be recognised that the EPPO is not institutionally detached from national prosecution systems. Its operational model is largely based on European Delegated Prosecutors, who act within domestic legal frameworks while simultaneously exercising powers derived from Union law. This arrangement creates a significant degree of interaction between supranational and national levels of prosecution and represents one of the distinctive features of the EPPO system. The challenge therefore lies not in the absence of interaction, but rather in ensuring effective coordination and coherent allocation of competences in complex cross-border cases. This hybrid structure, while necessary from a political and legal perspective, means that fragmentation is not entirely eliminated but rather transformed into a more complex, multi-level system.

²² MITSILEGAS, Valsamis. European Prosecution between Cooperation and Integration: The European Public Prosecutor's Office and the Rule of Law. In: *Maastricht Journal of European and Comparative Law*, 2021, vol. 28, no. 2, s. 245 – 264. DOI 10.1177/1023263X211005933.

²³ KOŘÍNEK, Štěpán. Evropský veřejný žalobce. In: *Acta Universitatis Carolinae Iuridica*, 2019, vol. 65, no. 4, s. 9 – 25. DOI 10.14712/23366478.2019.36.

One of the most significant consequences of fragmented enforcement is the occurrence of jurisdictional conflicts and parallel proceedings. In cross-border cases, multiple Member States may assert jurisdiction based on territoriality, nationality or the location of harm, leading to overlapping or competing claims. Although mechanisms exist to address such conflicts, including coordination through Eurojust and, to a certain extent, decision-making within the EPPO framework, these solutions are not always sufficient. The absence of a fully centralised prosecutorial authority for all categories of serious cross-border crime increases the risk of inconsistent outcomes and inefficiencies. The situation is further complicated by the existence of both participating and non-participating Member States within the EPPO framework. The mechanism of enhanced cooperation, while enabling progress in integration, also creates additional layers of complexity in cases involving multiple jurisdictions. These challenges are particularly relevant for environmental crime, where the location of criminal conduct, environmental damage and financial consequences may span several countries, making the determination of jurisdiction especially difficult. It should be noted that the establishment of the EPPO also raises important questions regarding the choice of forum in cross-border cases, as the allocation of jurisdiction between Member States may significantly affect both procedural outcomes and the rights of the parties involved.²⁴

3. Jurisdictional Challenges in Fragmented Enforcement

The fragmentation of enforcement mechanisms constitutes a major obstacle to the effective prosecution of environmental crime within the EU. The cross-border nature of such offences, combined with differences in national legal frameworks and enforcement capacities, creates significant gaps in the system. Environmental crime often involves multiple actors, jurisdictions and regulatory regimes, requiring a high level of coordination and specialised expertise. In the absence of a centralised prosecutorial authority, cases may be inadequately investigated, delayed or even abandoned due to procedural complexities. Furthermore, the lack of uniform enforcement standards may encourage forum shopping and regulatory arbitrage, whereby offenders exploit differences between national systems to minimise the risk of detection and punishment. In this context, the limitations of the current enforcement framework highlight the potential value of extending the competence of the EPPO or establishing alternative supranational mechanisms capable of addressing environmental crime in a more coherent and effective manner.

The ongoing development of EU criminal law suggests a gradual shift towards greater integration in the field of enforcement. The establishment of the EPPO can be seen as part of a broader trend aimed at strengthening the EU's capacity to respond to transnational criminal threats. Nevertheless, the question remains whether the current model, based on a combination of decentralised enforcement and limited supranational intervention, is sufficient to address emerging forms of cross-border criminality. The case of environmental crime illustrates the limitations of this approach and raises the issue of whether further integration is necessary. Any move towards a more centralised model must, however, carefully balance the objectives of effectiveness and respect for national sovereignty. This tension lies at the core of the debate on the future development of the EPPO and its potential expansion to new areas of criminal law.²⁵

²⁴ LIGETI, Katalin – SIMONATO, Michele. The European Public Prosecutor's Office: Towards a Truly European Prosecution Service? In: *New Journal of European Criminal Law*, 2013, vol. 4, no. 1–2, s. 7 – 21. DOI 10.1177/203228441300400102.

²⁵ BACHMAIER WINTER, Lorena (ed.). *The European Public Prosecutor's Office: The Challenges Ahead*. Cham : Springer, 2018, s. 117 a nasl. (289 s.). ISBN 978-3-319-93915-5.

V. COMPETENCE CHALLENGES IN EXTENDING THE EPPO'S MANDATE

1. Material Competence (*Ratione Materiae*) and the Limits of the Current Mandate

The primary competence-related challenge in extending the mandate of the EPPO lies in the definition of its material scope. Under the current legal framework, the EPPO is limited to offences affecting the financial interests of the EU, as defined by secondary legislation. This restrictive approach reflects the original purpose of the EPPO as a specialised body focused on protecting the EU budget. The inclusion of *environmental crime* within the EPPO's competence raises the question of whether such offences can be subsumed under the existing framework or whether a formal extension of competence is required. While certain environmental offences may have financial implications for the EU, these effects are often indirect or difficult to quantify, which complicates their legal qualification within the current system.

An expansive interpretation of material competence could potentially allow for the inclusion of environmental crime where a sufficiently close link to the EU's financial interests can be established. However, such an approach may conflict with the principle of legality and legal certainty, as it would stretch the existing legal framework beyond its intended scope. The concerns relating to the principle of legality and legal certainty arise primarily from the need to define with sufficient precision the scope of any newly conferred competence of the EPPO. Unlike offences affecting the financial interests of the European Union, environmental crime encompasses a broad and heterogeneous category of conduct, the precise criminalisation of which still differs to some extent among Member States despite ongoing harmonisation efforts. An extension of the EPPO's competence formulated in excessively broad or indeterminate terms could create uncertainty as to the allocation of prosecutorial authority between the EPPO and national prosecution services. Such uncertainty would not only affect institutional competences but could also have implications for individuals subject to criminal proceedings, who must be able to foresee which authority may exercise prosecutorial powers in a given case. Consequently, any future extension of the EPPO's mandate would require a clear and narrowly defined legal basis capable of ensuring compliance with the principles of legality and legal certainty. Consequently, any future extension of the EPPO's mandate would require a clear and narrowly defined legal basis, preferably through an express legislative intervention pursuant to Article 86(4) TFEU, capable of ensuring compliance with the principles of legality and legal certainty.

2. Territorial Competence (*Ratione Loci*) and Cross-border Complexity

The territorial dimension of EPPO competence presents another significant challenge. Environmental crime typically involves conduct and consequences that span multiple jurisdictions, including both participating and non-participating Member States. This raises complex questions regarding the allocation of jurisdiction and the coordination of investigative and prosecutorial activities. Although the EPPO's territorial competence is designed to address cross-border offences, its effectiveness is limited by the mechanism of enhanced cooperation, which restricts its jurisdiction to participating Member States. In cases involving third countries or non-participating EU states, the EPPO must rely on traditional instruments of judicial cooperation, thereby reintroducing elements of fragmentation. Furthermore, environmental harm often manifests in a geographically diffuse manner, making it difficult to determine the locus delicti and, consequently, the competent authority. This complexity increases the risk of jurisdictional conflicts and may hinder the efficient prosecution of offences. These challenges suggest that extending the EPPO's mandate to environmental crime would require not only an expansion of material competence but also a careful reconsideration of territorial jurisdiction rules to ensure coherence and effectiveness.

3. Institutional Competence and the Relationship with National Authorities

The extension of the EPPO's mandate would also have significant implications for the distribution of competences between the EU and Member States. Criminal prosecution has traditionally been regarded as a core element of national sovereignty, and any transfer of powers to the supranational level must be carefully justified. The hybrid structure of the EPPO, which combines supranational and national elements, reflects an attempt to balance these competing considerations. However, extending its competence to new areas such as environmental crime may exacerbate existing tensions between EU institutions and national authorities. In particular, the role of European Delegated Prosecutors, who operate within national systems while acting on behalf of the EPPO, may become more complex in the context of environmental crime, which often involves specialised administrative and regulatory frameworks. This could lead to practical difficulties in coordination, as well as potential conflicts between national priorities and EU-level objectives. Moreover, the involvement of other national bodies, such as environmental agencies and inspection authorities, would necessitate the development of new forms of institutional cooperation, further complicating the existing framework.

VI. MODELS FOR EXTENDING THE EPPO'S COMPETENCE TO ENVIRONMENTAL CRIME

The question of extending the competence of the EPPO has become increasingly relevant in light of the evolving nature of cross-border criminality within the EU. Environmental crime, in particular, highlights the limitations of the current enforcement framework and calls for a reassessment of existing jurisdictional arrangements. In this context, several theoretical and practical models may be identified²⁶, each reflecting a different balance between effectiveness of enforcement and respect for the constitutional limits of EU competences. These models provide a structured basis for evaluating possible reforms of the EPPO's mandate and their implications for the future development of European criminal law.

The models presented in this section do not correspond to formally established categories recognised in EU legislation or uniformly accepted within legal doctrine. Rather, they represent an analytical typology developed for the purposes of this study on the basis of existing academic discussions concerning the future development of the EPPO, combined with the author's own assessment of possible legislative and institutional solutions. While individual elements of the proposed models can be identified in the broader literature on European criminal law and the evolution of the EPPO, their present classification into three distinct models serves as a conceptual framework intended to facilitate a systematic evaluation of alternative approaches to extending the EPPO's competence to environmental crime.

1. Full Extension Model

The full extension model presupposes a comprehensive expansion of the material competence of the EPPO to include environmental crime as an autonomous category of criminal offences falling within its jurisdiction. Such an approach would require a formal amendment of the existing legal framework based on Article 86(4) of the Treaty on the Functioning of the European Union, enabling the EPPO to prosecute serious environmental offences with a cross-border dimension irrespective of their direct impact on the financial interests of the EU. This model reflects the growing recognition of environmental protection as a fundamental value of the EU and aligns with the increasing harmonisation of environmental criminal law at the EU

²⁶ BACHMAIER WINTER, Lorena (ed.). *The European Public Prosecutor's Office: The Challenges Ahead*. Cham : Springer, 2018 (289 s.). ISBN 978-3-319-93915-5; MEIJ, A.W.H. – ERKELENS, L.H. – PAWLIK, M. *The European Public Prosecutor's Office: An Extended Arm Or a Two-Headed Dragon?* The Hague : T.M.C. Asser Press, 2014 (285 s.). ISBN 978-94-6265-035-0; KOŘÍNEK, Štěpán. Evropský veřejný žalobce. In: *Acta Universitatis Carolinae Iuridica*, 2019, vol. 65, no. 4, s. 9 – 25. DOI 10.14712/23366478.2019.36; KOŘÍNEK, Štěpán. Komplikace a perspektivy Ústavu evropského veřejného žalobce. In: *Jurisprudence*, 2020, vol. 29, no. 3, s. 21 – 29.

level. From a systemic perspective, it would significantly enhance the coherence and effectiveness of enforcement by centralising prosecutorial powers in cases characterised by transnational complexity. However, this model raises substantial concerns regarding the scope of EU competences and the potential overextension of supranational authority in the sensitive domain of criminal law. It may also lead to an increased administrative burden on the EPPO, requiring significant institutional reinforcement and the development of specialised expertise in environmental matters.

2. Functional (PIF-linked) Model

The functional or PIF-linked model represents a more conservative approach, based on the extension of the EPPO's competence only in cases where environmental crime is directly or indirectly connected to the financial interests of the EU. Under this model, environmental offences would fall within the EPPO's jurisdiction only if they involve elements such as fraud related to EU funds, misuse of environmental subsidies or financial damage resulting from unlawful environmental practices. This model differs from the current legal framework in an important respect. Under the existing regime, the EPPO may prosecute environmental misconduct only insofar as it constitutes, or is directly linked to, a PIF offence falling within its established competence. By contrast, the functional model would permit the EPPO to exercise jurisdiction over environmental offences themselves where a sufficiently close connection to the financial interests of the Union exists. Such connection could arise, for example, where environmental harm results from the fraudulent use of Union funds, the unlawful obtaining of environmental subsidies, the misuse of resources financed by the Union budget, or conduct generating substantial remediation costs ultimately borne by the European Union. The environmental offence would therefore fall within the EPPO's competence not because it constitutes a PIF offence in itself, but because of its sufficiently close functional connection to the financial interests of the Union.

This approach builds upon the existing legal framework and avoids the need for a fundamental revision of the EPPO's mandate, thereby ensuring greater compatibility with the principle of conferral. It also reflects the current rationale of the EPPO as a specialised body focused on protecting the EU budget. Nevertheless, the effectiveness of this model is limited by its narrow scope, as many environmentally harmful activities do not produce immediate or easily quantifiable financial consequences for the EU. At the same time, the introduction of this model would require clarification as to whether the existing financial thresholds applicable to certain PIF offences should remain relevant. If retained without modification, such thresholds could significantly restrict the practical usefulness of the model, as serious environmental harm may generate substantial ecological consequences without necessarily satisfying the financial criteria currently used for determining EPPO competence. Consequently, despite its greater compatibility with the existing legal framework, the PIF-linked model may fail to address the broader spectrum of environmental crime, particularly in cases where ecological damage does not directly translate into financial loss or does not satisfy the financial thresholds applicable to EPPO competence.

3. Hybrid Model of Specialised Competence

The hybrid model combines elements of both the full extension and functional approaches by introducing a specialised competence of the EPPO for selected categories of environmental crime with a significant cross-border dimension. This model would involve the establishment of a dedicated environmental crime unit within the EPPO or the creation of specific jurisdictional criteria enabling the Office to intervene in particularly serious or complex cases. Such an approach allows for a targeted expansion of competence while maintaining a balanced relationship between EU-level and national enforcement mechanisms. It also

facilitates the gradual development of institutional capacity and expertise without imposing an immediate and comprehensive extension of the EPPO's mandate. From a legal perspective, the hybrid model may be more politically feasible, as it limits the transfer of competences to clearly defined areas and preserves a substantial role for national authorities. At the same time, it addresses the most pressing enforcement gaps by enabling coordinated prosecution of high-impact environmental offences. This model therefore represents a pragmatic compromise between effectiveness and respect for the constitutional limits of EU criminal law.

4. Institutional Adaptation and Specialisation

Regardless of the chosen model, the extension of the EPPO's competence to environmental crime would necessitate significant institutional adaptation. Environmental crime is characterised by a high degree of technical complexity, requiring specialised knowledge in fields such as environmental science, regulatory law and forensic investigation. The EPPO would therefore need to develop internal expertise, either through the recruitment of specialised prosecutors or through enhanced cooperation with external experts and agencies. Furthermore, the integration of environmental competence would require adjustments in the organisational structure of the EPPO, including the possible establishment of specialised units or chambers responsible for handling environmental cases. This process would also involve strengthening cooperation with existing EU bodies, such as Europol and Eurojust, as well as national environmental authorities and inspection bodies. The hybrid nature of the EPPO's structure, combining centralised decision-making with decentralised implementation, may facilitate such adaptation, but it also introduces additional coordination challenges. Ensuring the effective functioning of an expanded mandate would thus depend on the ability of the EPPO to integrate new competences without compromising its operational efficiency.

5. Comparative Evaluation of Models

A comparative assessment of the proposed models reveals a fundamental trade-off between effectiveness and legal feasibility. The full extension model offers the highest degree of enforcement integration but faces significant legal and political obstacles, particularly in relation to the principles of conferral and subsidiarity. The PIF-linked model, by contrast, is more consistent with the existing legal framework but provides only a limited solution to the problem of environmental crime. The hybrid model occupies an intermediate position, combining targeted effectiveness with a higher degree of political acceptability. In evaluating these options, it is essential to consider not only their legal compatibility but also their practical implications, including resource requirements, institutional capacity and the potential impact on national legal systems. The choice of model should ultimately reflect a balanced approach that takes into account the need for effective enforcement of environmental criminal law while respecting the constitutional structure of the EU. In this context, the hybrid model appears to offer the most viable path forward, providing a flexible framework for gradual integration and future development.

VII. NATIONAL PERSPECTIVE: IMPLICATIONS FOR THE SLOVAK REPUBLIC

The legal framework governing environmental crime in the Slovak Republic is primarily embedded within the *Criminal Code* No. 300/2005 Coll.²⁷, supplemented by a wide range of administrative and regulatory instruments²⁸ aimed at environmental protection. Environmental

²⁷ Zákon č. 300/2005 Z. z. Trestný zákon, v znení neskorších predpisov. [online] [cit. 2025-10-09]. Dostupné online: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2005/300/20251227>.

²⁸ Napríklad: Zákon č. 79/2015 Z. z. o odpadoch a o zmene a doplnení niektorých zákonov, v znení neskorších predpisov. [online] [cit. 2025-10-09]. Dostupné online: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2015/79/>; Zákon č. 364/2004 Z. z. o vodách a o zmene zákona Slovenskej národnej rady č. 372/1990 Zb. o priestupkoch v znení neskorších predpisov (vodný zákon), v znení neskorších predpisov. [online] [cit. 2025-10-09]. Dostupné online: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2004/364/>.

offences are typically defined in relation to violations of specific statutory obligations concerning the protection of natural resources, waste management, water protection or air quality. This dual structure, combining criminal and administrative regulation, reflects the broader European model but also contributes to a certain degree of complexity in legal qualification and enforcement.²⁹ The coexistence of administrative and criminal enforcement mechanisms also raises questions concerning the principle *ne bis in idem*, particularly in cases where environmentally harmful conduct may give rise to both administrative sanctions and criminal liability. The parallel application of administrative and criminal measures pursuing complementary objectives, the distinction between permissible dual-track enforcement and prohibited double punishment remains sensitive in practice. In the field of environmental protection, where administrative enforcement frequently constitutes the primary response to regulatory breaches, careful assessment is required to ensure that subsequent criminal proceedings remain compatible with the requirements of legal certainty, proportionality and the principle *ne bis in idem*. From a practical perspective, the application of criminal law in environmental matters remains relatively limited, with a significant proportion of cases being resolved through administrative proceedings. This approach may reduce the deterrent effect of criminal sanctions and weaken the overall effectiveness of enforcement. The Slovak system thus exhibits characteristics common to many Member States, where environmental crime is formally criminalised but only selectively prosecuted, particularly in cases lacking clear economic or social impact.

The enforcement of environmental criminal law in Slovakia involves multiple institutional actors, including the Police Force, the Public Prosecution Service and specialised administrative bodies such as environmental inspectorates. This multi-layered structure reflects the complexity of environmental regulation but also creates challenges in terms of coordination and information sharing. In practice, the investigation of environmental offences often requires cooperation between criminal law enforcement authorities and technical experts, which may lead to delays and procedural complications. Furthermore, the limited degree of specialisation of prosecutorial units dedicated exclusively to environmental crime limits the development of expertise in this area. These challenges are consistent with broader observations in the literature, according to which national authorities frequently struggle to effectively address complex forms of cross-border criminality due to institutional fragmentation and limited resources. The Slovak experience thus illustrates the practical difficulties associated with enforcing environmental criminal law within a predominantly national framework.

The geographical position of the Slovak Republic, combined with its integration into the internal market and the Schengen area, creates favourable conditions for the occurrence of cross-border environmental crime. Activities such as illegal waste transport, transboundary pollution or unlawful exploitation of natural resources often involve actors and consequences extending beyond national borders. In such cases, the effectiveness of enforcement depends heavily on international cooperation, including mutual legal assistance and coordination through EU bodies. However, these mechanisms may be insufficient to address the complexity and scale of cross-border environmental offences, particularly where multiple jurisdictions are involved. The limitations of existing cooperation frameworks highlight the potential benefits of

lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2004/364/; Zákon č. 137/2010 Z. z. o ovzduší, v znení neskorších predpisov. [online] [cit. 2025-10-09]. Dostupné online: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2010/137/20131001.html>; Zákon č. 24/2006 Z. z. o posudzovaní vplyvov na životné prostredie a o zmene a doplnení niektorých zákonov, v znení neskorších predpisov. [online] [cit. 2025-10-09]. Dostupné online: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2006/24/>.

²⁹ In depth analysis: IVOR, Jaroslav – POLÁK, Peter – ZÁHORA, Jozef. *Trestné právo hmotné II. Osobitná časť*. 2nd ed. Bratislava : Wolters Kluwer, 2017 (646 s.). ISBN 978-80-8168-585-9; MENCEROVÁ, Ingrid et al. *Trestné právo hmotné. Osobitná časť*. 3rd ed. Bratislava : Heuréka, 2025 (472 s.). ISBN 978-80-570-6466-4; KLÁTIK, Jaroslav et al. *Trestné právo hmotné. Osobitná časť*. 3rd ed. Plzeň : Aleš Čeněk, 2025 (484 s.). ISBN 978-80-7380-968-3.

a more integrated approach, including the possible involvement of supranational prosecutorial bodies. At the same time, the Slovak Republic must navigate the challenges associated with differing legal standards and enforcement practices among neighbouring states, which may create opportunities for regulatory arbitrage and hinder effective prosecution.

The potential extension of the EPPO's competence to environmental crime could have significant implications for the Slovak Republic, particularly in enhancing the effectiveness of cross-border enforcement. The involvement of the EPPO would allow for a more coordinated and centralised approach to complex cases, reducing the reliance on fragmented cooperation mechanisms and facilitating the handling of multi-jurisdictional investigations. The decentralised structure of the EPPO, based on European Delegated Prosecutors operating within national systems, would enable the integration of EU-level competence into the Slovak legal environment without fundamentally disrupting existing institutional arrangements. However, this integration would also require adjustments in practice, including closer cooperation between national authorities and EPPO structures, as well as the development of specialised expertise in environmental criminal law. Moreover, the extension of EPPO competence may raise concerns regarding the balance between supranational intervention and national sovereignty, particularly in a domain traditionally reserved to domestic authorities.

Despite its potential benefits, the extension of the EPPO's competence to environmental crime also presents several challenges from the perspective of the Slovak Republic. One of the main concerns relates to the redistribution of prosecutorial powers, which may be perceived as a limitation of national autonomy in criminal matters. Additionally, the integration of environmental crime into the EPPO's mandate would require significant institutional and procedural adjustments, including the adaptation of national legislation and the allocation of additional resources. Practical challenges may also arise in relation to the coordination between EPPO and national authorities, particularly in cases involving overlapping competences or differing priorities. Furthermore, the effectiveness of such an extension would depend on the willingness of all relevant actors to engage in close cooperation and to adapt to the requirements of a multi-level enforcement system. These considerations highlight the need for a carefully calibrated approach that takes into account both the benefits and the potential risks associated with expanding the EPPO's mandate.

From a broader perspective, the Slovak experience reflects the general challenges faced by Member States in addressing environmental crime within a fragmented enforcement framework. The limitations of national systems, particularly in dealing with cross-border offences, support the argument for enhanced supranational intervention. At the same time, the sensitivity of criminal law as an area of national sovereignty necessitates a cautious and balanced approach to reform. In this context, the extension of the EPPO's competence to environmental crime may represent a viable solution, provided that it is implemented in a manner consistent with the principles of subsidiarity and proportionality. This position has also been advocated in recent scholarship, which emphasises the cross-border nature of environmental crime, the growing importance of environmental protection within the European Union and the potential institutional benefits of entrusting such cases to the EPPO.³⁰ The Slovak Republic, as a participating Member State in the EPPO framework, is well positioned to contribute to this development and to benefit from a more integrated system of criminal enforcement at the EU level. The national perspective thus underscores both the necessity and the complexity of potential reforms in this area. This issue is particularly relevant in the Slovak context, where environmental authorities and criminal justice bodies may address the same underlying conduct through different legal mechanisms.

³⁰ JIMENO BULNES, Mar. The European Public Prosecutor's Office and Environmental Crime: Further Competence in the Near Future? In: *Eucrim*, 2024, vol. 19, no. 2, s. 146 – 152. DOI 10.30709/eucrim-2024-010.

VIII. *DE LEGE FERENDA* PROPOSALS

The following *de lege ferenda* proposals build upon the models discussed in Section VI. Rather than introducing alternative models, they seek to translate the previously identified Full Extension Model, Functional (PIF-linked) Model and Hybrid Model of Specialised Competence into concrete legislative and institutional reform options.

1. Full Extension Model: Formal Extension of the EPPO's Material Competence

The first proposal concerns the formal extension of the EPPO's material competence to selected forms of serious environmental crime with a cross-border dimension. From the perspective of EU constitutional law, the present framework does not allow environmental criminality to be included in the EPPO's mandate merely by broad interpretation, except where a concrete and sufficiently close link to the financial interests of the EU can be demonstrated. Although such a link may exist in individual cases involving subsidies, public procurement, remediation costs or misuse of EU funds, it cannot serve as a stable legal basis for the systematic prosecution of environmental offences as such. For that reason, the legally sound solution is not interpretative expansion, but normative intervention based on Article 86(4) of the Treaty on the Functioning of the European Union. Such reform should expressly define which environmental offences qualify as serious crime for the purposes of EPPO jurisdiction, thereby preserving legal certainty, foreseeability and compliance with the principle of legality. A purely open-ended formula would be unsuitable, because it would generate uncertainty as to the relationship between EU and national prosecutorial powers and could trigger unnecessary competence disputes.

2. Hybrid Model: Selective Jurisdiction over Particularly Serious Environmental Offences

A second proposal is to avoid an overly broad transfer of powers and instead adopt a selective jurisdiction model limited to clearly identified categories of environmental crime. In legislative terms, this means that the EPPO should not receive a general mandate over all environmentally harmful conduct, but only over offences of heightened gravity, especially those involving organised criminal networks, unlawful transboundary waste shipment, large-scale pollution, illegal trafficking in protected species, or conduct producing extensive and difficult-to-reverse environmental damage in more than one Member State. This approach is preferable because it better respects the principles of subsidiarity and proportionality. It also acknowledges that not every environmental offence requires supranational prosecution, while recognising that certain categories plainly exceed the practical capacities of isolated national enforcement. A selective model would further reduce political resistance among Member States, since it would not amount to a blanket "Europeanisation" of environmental criminal justice, but rather to a targeted intervention where fragmentation demonstrably undermines effectiveness. In addition, precise threshold criteria would help prevent competence inflation and preserve the operational focus of the EPPO.

3. Hybrid Model: Establishment of a Specialised Environmental Crime Chamber within the EPPO

If the EPPO's competence is extended, the reform should be accompanied by the establishment of a specialised environmental crime chamber, or at least a functionally specialised internal structure, composed of prosecutors and delegated prosecutors trained in environmental criminal law, administrative regulation and cross-border evidentiary practice. Environmental crime differs from conventional fraud-based casework because it often depends on technical assessments, scientific evidence, long causal chains and interaction with administrative enforcement systems. Without internal specialisation, the mere extension of

formal competence would not produce a corresponding increase in effectiveness. A specialised structure would improve consistency in decision-making, strengthen expertise in case selection, and enable more coherent coordination with national inspectorates, customs bodies, environmental agencies and expert institutions. It would also reduce the risk that environmental cases remain marginal within an institution originally designed around PIF offences. From a practical perspective, such internal specialisation is more realistic than building a separate EU body from the ground up, while still delivering an identifiable institutional response to a specific criminological phenomenon.

4. Clear Rules on Coordination with Eurojust, Europol and National Authorities

The adoption of more explicit coordination rules governing the relationship between the EPPO, Eurojust, Europol and competent national authorities in environmental cases is required. One of the central weaknesses of the present enforcement landscape is not merely the absence of a single prosecutorial actor, but also the institutional overlap between bodies that gather intelligence, coordinate proceedings and exercise prosecution. If environmental crime is partially transferred into the EPPO sphere, the regulation should simultaneously define which authority has primacy at each stage of proceedings, how conflicts of competence are to be resolved, and under what conditions support bodies remain involved once the EPPO assumes control. This is particularly important in hybrid cases where environmental harm is linked to fraud, corruption, customs offences, organised crime or digital evidence located across several jurisdictions. Clear rules of vertical and horizontal coordination would reduce duplication, accelerate information flows and protect procedural economy. They would also enhance the legitimacy of supranational prosecution by making the distribution of functions transparent and normatively predictable for practitioners and national institutions alike.

5. Gradual Reform through a Pilot or Phased Competence Model

The final proposal is methodological rather than purely substantive: the extension of EPPO competence should proceed gradually through a pilot or phased model. Given the legal sensitivity of criminal jurisdiction and the political difficulty of unanimous agreement under Article 86(4) of the Treaty on the Functioning of the European Union, a step-by-step reform may be more feasible than an immediate and comprehensive transfer of competence. In practical terms, the first phase could cover only a narrow group of environmental offences that are clearly cross-border, highly organised and evidentially suitable for supranational prosecution. The second phase could evaluate operational outcomes, institutional capacity and interaction with national systems before considering broader extension. This model has several advantages. It lowers the political threshold for reform, allows empirical assessment of added value, and limits the systemic risk associated with major institutional change. At the same time, it remains faithful to the logic of EU integration, which has often advanced through differentiated and incremental mechanisms rather than through abrupt constitutional transformation. In the context of environmental crime, where the need for stronger enforcement is increasingly evident but the final institutional design remains contested, a phased model appears to be the most prudent and defensible legislative pathway.

IX. CONCLUSIONS

The current system of criminal law enforcement within the EU remains significantly affected by structural fragmentation, particularly in areas characterised by a strong cross-border dimension such as environmental crime. Despite the progressive development of instruments aimed at enhancing cooperation between Member States of the EU, including the establishment of agencies such as Europol and Eurojust, the overall framework continues to rely predominantly on decentralised mechanisms. These mechanisms, while valuable, are often

insufficient to address complex transnational criminal activities in a coherent and effective manner. In this context, the creation of the EPPO represents a substantial step towards greater integration in the field of EU criminal justice. By introducing a supranational body with direct prosecutorial powers, the EU has moved beyond the traditional model of intergovernmental cooperation. The EPPO has the capacity to conduct investigations, coordinate actions across jurisdictions and bring cases before national courts, thereby mitigating some of the practical obstacles associated with cross-border enforcement. However, as the analysis in this article has shown, the potential of the EPPO to address fragmentation remains inherently limited by the scope of its material competence.

The restriction of the EPPO's jurisdiction to offences affecting the financial interests of the EU reflects both legal and political considerations, particularly the principle of conferral and the sensitivity of criminal law as a domain of national sovereignty. Nevertheless, this limitation creates a significant gap in the enforcement of other forms of serious cross-border criminality, including environmental crime. As demonstrated, environmental offences often exhibit a transnational character and may produce substantial economic consequences, including indirect impacts on the EU budget. Despite this, they remain largely outside the EPPO's mandate, resulting in a continued reliance on fragmented national responses. The examination of different models for extending the EPPO's competence indicates that there is no single solution capable of fully reconciling the objectives of effectiveness, legal certainty and respect for national sovereignty. The full extension model offers the highest degree of integration and coherence but raises concerns regarding the limits of EU competences and the potential overcentralisation of criminal law enforcement. The functional, or PIF-linked, model appears more compatible with the existing legal framework but suffers from a narrow scope that may fail to capture the broader reality of environmental crime. The hybrid model, combining elements of both approaches, emerges as a particularly promising option, as it allows for a targeted expansion of competence while preserving a significant role for national authorities.

From a national perspective, as illustrated by the example of the Slovak Republic, the challenges associated with environmental crime are further exacerbated by limited institutional capacity and the fragmentation of enforcement mechanisms at the domestic level. The coexistence of criminal and administrative instruments, coupled with a relatively low degree of specialisation, may hinder the effective prosecution of complex environmental offences. In this regard, enhanced involvement of EU-level institutions, including a potentially expanded EPPO, could contribute to improving coordination, expertise and overall enforcement outcomes.

At the normative level, the extension of the EPPO's competence would require careful consideration of the legal basis provided by the Treaty on the Functioning of the European Union. Any such development must be grounded in a clear and precise definition of competences, ensuring compliance with the principles of legality and legal certainty. At the same time, it is essential to maintain an appropriate balance between the need for effective supranational enforcement and the preservation of Member States' autonomy in criminal matters. This tension is likely to remain a defining feature of the future evolution of European criminal law.

Indeed, the current model of the EPPO, while representing a significant advancement in the integration of EU criminal justice, does not appear to be fully sufficient to address the challenges posed by environmental crime. The persistence of fragmentation, combined with the limited scope of the EPPO's mandate, suggests that further development of the existing framework is necessary. A gradual and carefully calibrated extension of competences, possibly in the form of a hybrid model, may offer a viable path forward. Such an approach would allow the EU to enhance the effectiveness of enforcement while respecting the constitutional and political constraints inherent in the field of criminal law.

KEY WORDS

European Public Prosecutor's Office, environmental crime, cross-border crime, fragmentation of law enforcement, EPPO competence

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Európska prokuratúra, environmentálna kriminalita, cezhraničná kriminalita, fragmentácia presadzovania práva, právomoc EPPO

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