

WCC-2016-Res-076-EN

Improving the means to fight environmental crime

CONSIDERING that environmental crime is a serious and growing international problem, which has devastating and grave effects that are environmental, social and economic in nature and that such crime is often linked with mafias and armed groups that threaten the security of countries;

FURTHER CONSIDERING that environmental crime covers a wide range of illegal actions such as the illegal killing of wildlife, the use of poisoned baits, illegal habitat destruction, illegal trade in wildlife, illicit trade in geological heritage (fossils, minerals, rocks and meteorites), destruction of places of geological interest, the emission or discharge of substances into air, water or soil, the illegal trade in ozone-depleting substances, or the illegal shipment or dumping of waste, sometimes carried out by criminal organisations in different territorial ambits;

RECOGNISING that Law 42/2007 on Natural Heritage and Biodiversity of Spain is a pioneer in the protection of geodiversity in that country and has served as an example for others, but that neither it, nor the recent amendment, includes effects on geodiversity and geological heritage in Title VI on infractions and sanctions;

RECALLING IUCN Resolution 4.040 *Conservation of geodiversity and geological heritage* (2008, Barcelona), which says that geological heritage constitutes a natural heritage with cultural, aesthetic, landscape, economic and/or intrinsic value and should be preserved and transmitted to future generations;

RECALLING ALSO the pioneering trend established with the approval by the Council of Europe in 2004 of Recommendation Rec(2004)3 'conservation of the geological heritage and areas of special geological interest', and its call for cooperation among international organisations, scientific institutions and NGOs in the field of geological heritage conservation, and participation in geological conservation programmes, to be strengthened;

TRULY WORRIED by the fact that, according to the report by INTERPOL and the United Nations Environment Programme (UNEP), environmental crime has become one of the most critical illegal activities, the worldwide scale of which is without precedent, and that alongside the trafficking of people or drugs and forgery, the monetary value of all organised environmental crime is estimated as being between USD 70 billion and USD 213 billion each year;

CONCERNED that these actions rarely result in the serious prosecution or punishment of perpetrators and that sentences are infrequent and not truly deterrent, resulting in a general sense of impunity being felt both by violators and society in general;

RECALLING that, if they are well defined, proportionate and implemented effectively, criminal sanctions can prevent damage being inflicted on nature;

RECOGNISING United Nations General Assembly Resolution 69/314 *Tackling Illicit Trafficking in Wildlife*, adopted on 30 July 2015, which encouraged Member States to adopt effective measures to prevent and combat the serious problem posed by environmental crime;

ALSO RECOGNISING Spain's initiative, leading to the creation of national public prosecution authorities devoted to the prosecution of environmental offences, the Italian Parliament's initiative involving the inclusion of environmental damage into the penal code, and France's commitment to reinforcing criminal sanctions regarding the environment and to include environmental damage in the civil code;

WELCOMING WITH SATISFACTION Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on *the protection of the environment through criminal law*, which constitutes a first step towards the standardisation of European criminal law protection;

WELCOMING the explicit recognition of the crime of ecocide by a number of States, such as the USA, Russia and Colombia;

ALSO WELCOMING Resolution 5.129 *Courts and access to justice* (Jeju 2012) that calls for strengthening of the linkages between courts, access to justice and the environment;

NOTING that many institutions, non-governmental organisations (NGOs), judges, prosecutors and law enforcement agents have devoted significant efforts to cooperating with each other at sub-national, national, regional and global levels and that these initiatives have led to the creation of a series of networks to fight against environmental crime;

RECOGNISING that networking to combat environmental crime contributes to cooperation and coordination between the various stakeholders involved in the enforcement of environmental legislation so that a higher and more consistent level of environmental protection is achieved, developing and maintaining the ability to detect, investigate and prosecute environmental crime, and also contributes to a consistent approach in the implementation of environmental legislation, providing a feedback mechanism to policy makers and legislators on the practical implementation of policies and legislation;

FURTHER RECOGNISING that environmental networks contribute to the exchange of information, practices, procedures, legislation, training and a number of resources in order that they might be harmonised or improved;

ARGUING that while in many crimes, besides a possible public accusation, there are affected third parties with a particular interest in pursuing legal action against the offender and that, in the case of environmental crime, environmental NGOs and local communities can hold such interest in pursuing legal action and contributing expertise;

CONCERNED that in many States the legal status of NGOs and local communities to be able to pursue legal action against environmental crime is not formally or legally recognised; and

CONSIDERING that in many States all responsibility with regard to the prosecution of environmental crime falls exclusively within the mandate of the ministries dealing with tax revenue or other fiscal matters and that these bodies are usually overloaded with work and not necessarily knowledgeable or proficient in environmental matters;

The World Conservation Congress, at its session in Hawai'i, United States of America, 1-10 September 2016:

1. ASKS the Director General to urge State Members to use all means necessary to reduce the impunity with which crimes against wild fauna and flora and geological heritage are committed, and especially to:

- a. give legal recognition to the role environmental NGOs and local communities can play in court in cases of environmental crime, especially crimes involving harm to flora, fauna and geological heritage;
- b. promote actively the legal role of environmental NGOs and that of local communities in cases of environmental crime, especially crimes involving harm to flora, fauna and geological heritage;
- c. adopt ongoing training systems and, if possible specialisation, for their prosecution services in the area of environmental affairs and, more specifically, crimes against wild fauna and flora and geological heritage;
- d. ensure the collaboration of IUCN with existing networks fighting against environmental crime; and
- e. encourage networking between different agencies and stakeholders involved in the fight against environmental crime, allocating sufficient means and facilities to such networks for their optimal performance;

2. ASKS the World Commission on Environmental Law to continue its work and to provide its expertise in this area to governmental and non-governmental organisations in order to facilitate the implementation of dissuasive, effective and proportionate criminal sanctions;

3. ASKS Members to support the strengthening of environmental criminal law and its effective implementation at both national and international levels; and

4. ASKS governments and legislators in each country to:
 - a. define, adopt and implement appropriate criminal sanctions proportionate to the different types of environmental damage;
 - b. adapt judicial investigatory powers to the specificities of environmental crime, and enhance the competencies of the criminal courts responsible to implement environmental criminal law with transparency and accountability;
 - c. strengthen actions aimed at raising the awareness of the potential perpetrators of environmental damage as well the means, the material resources, training and coordination of the various public and private stakeholders involved in cracking down on environmental damage; and
 - d. incorporate into local legislation, across international, bilateral or multilateral treaties, punitive measures to punish environmental crimes committed by transnational corporations.

State and agency Members of the United States abstained during the vote on this motion for reasons given in the U.S. General Statement on the IUCN Motions Process.