

LIFE-ENPE Working Group 3 – Air Pollution

Christos Naintos



Source: Irish Times

“the biggest public health emergency of a generation”

Sadiq Khan

LIFE14 GIE/UK/000043



An introduction to the European Network of Prosecutors for the Environment

- Arises from numerous calls for a network for environmental prosecutors
- Originally founded in Autumn 2012; incorporated as an international non-profit organisation in 2016 ENPE aisbl
- Membership of environmental prosecutors from across Europe
- Board of representatives from: UK, Netherlands, Ireland, Sweden and France



Now with the support to realise that mission...

The LIFE-ENPE project

- Funding through the European Union LIFE programme [LIFE14 GIE/UK/000043](#)
- Partnership between the Environment Agency (UK), Environmental Protection Agency (Ireland), Åklagarmyndigheten (Sweden), Openbaar Ministerie (Netherlands) and the European Union Forum of Judges for the Environment



Key facts and figures location, budget, objectives

Objectives:

- build a self-sustaining network of European environmental prosecutors
- improve prosecutors' and judges' capacity and consistency in combating waste, wildlife and air pollution crimes
- improve the collation and dissemination of information on environmental crimes (in particular waste, wildlife and air pollution crimes)



4 Working Groups 2016-2019

4 areas of trans-national environmental crime:



waste crime



wildlife crime



air pollution



Judicial practises &
sanctioning



Working Group 3 - Air Pollution

- The Air Pollution Working Group is an expert group focused on connecting European environmental prosecutors and establishing specialist resources on the prosecution of air pollution crimes. The group is chaired by Lorna Dempsey of the Irish Environmental Protection Agency.
- Air pollution is a triple problem:
 - a) shortening the lives of humans,
 - b) damaging natural ecosystems we depend on and
 - c) changing the world's climate.
- 90% of Europeans living in cities are exposed to levels of air pollutants which the WHO deem damaging to health.



Working Group 3 - Air Pollution

- Air pollution crimes mainly consist of cases involving:
 - a) breaches of industrial emissions from factories or
 - b) odour prosecutions.
- These can be stand:
 - a) alone prosecutions,
 - b) or may cross over into waste cases, illegal dumping, manufacturing, pollution affecting the food chain or water supply. Air pollution cases have even involved corruption in public office, bribery, fraud, competition law and consumer protection.
- It is an evolving area of environmental crime and we hope to connect with all of the European prosecutors working in this area or who wish to work in this area, so as to build the network and equip us all.



Working Group 3 Members

- Bosnia and Herzegovina (Dragana Lipovcic)
- Bulgaria (Victor Tartchev)
- Cyprus (Lina Chatziathanasiou)
- Greece (Christos Naintos)
- Romania (Teodor Nita)
- Ireland (Lorna Dempsey, Aisling Kelly)
- Scotland, UK (Gillian Higgins)



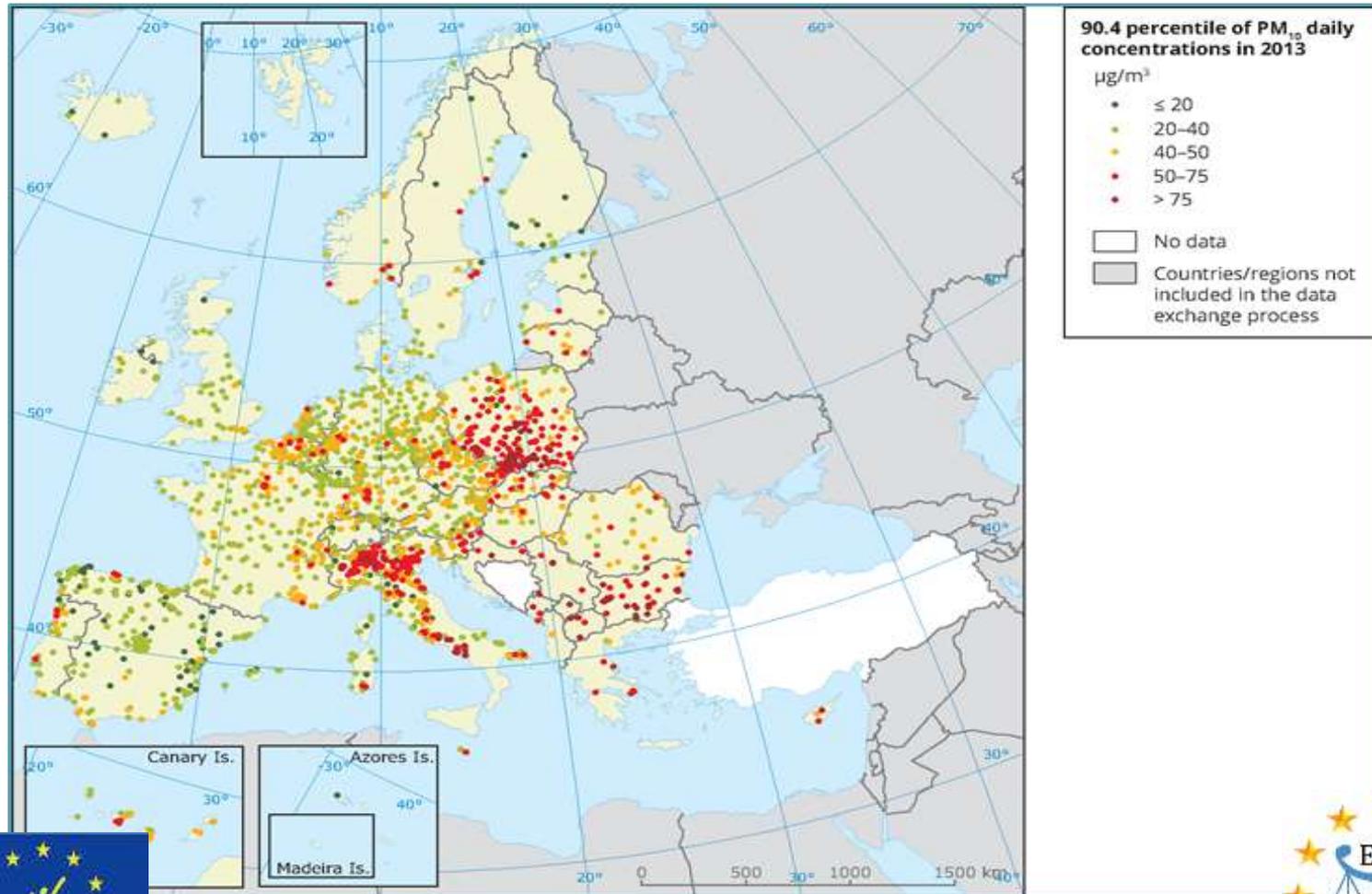
Impact of air pollution

European Environment Agency – Air Quality in Europe 2016

- Air pollution is the single largest environmental health risk in Europe
- PM_{2.5} responsible for 436,000 premature deaths in the EU in 2013
- Air pollution may directly affect vegetation, water and soil quality
- Several air pollutants have an impact on climate change
- Air pollution can damage buildings and materials
- Market costs include reduced labour productivity

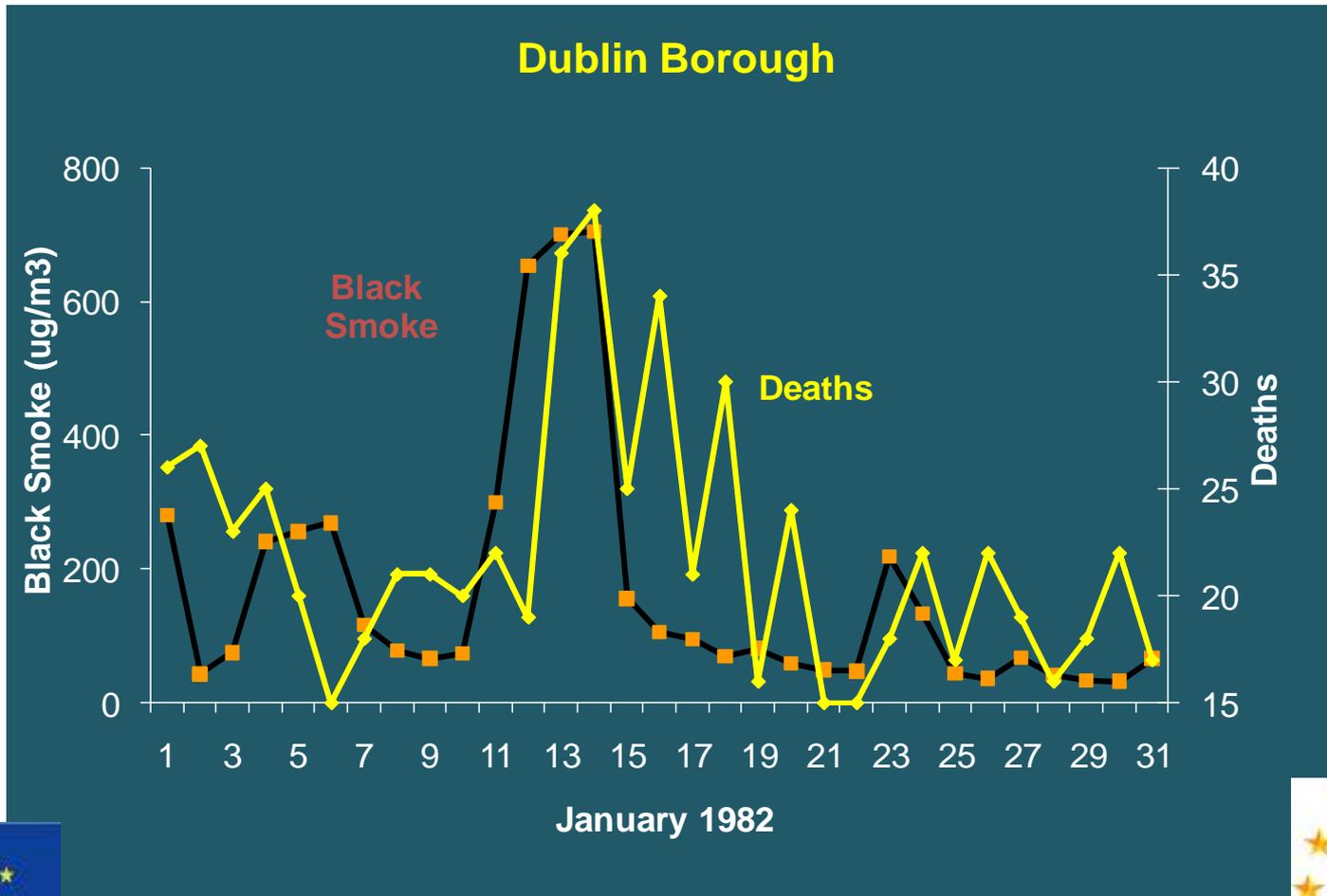


European Environment Agency – PM₁₀

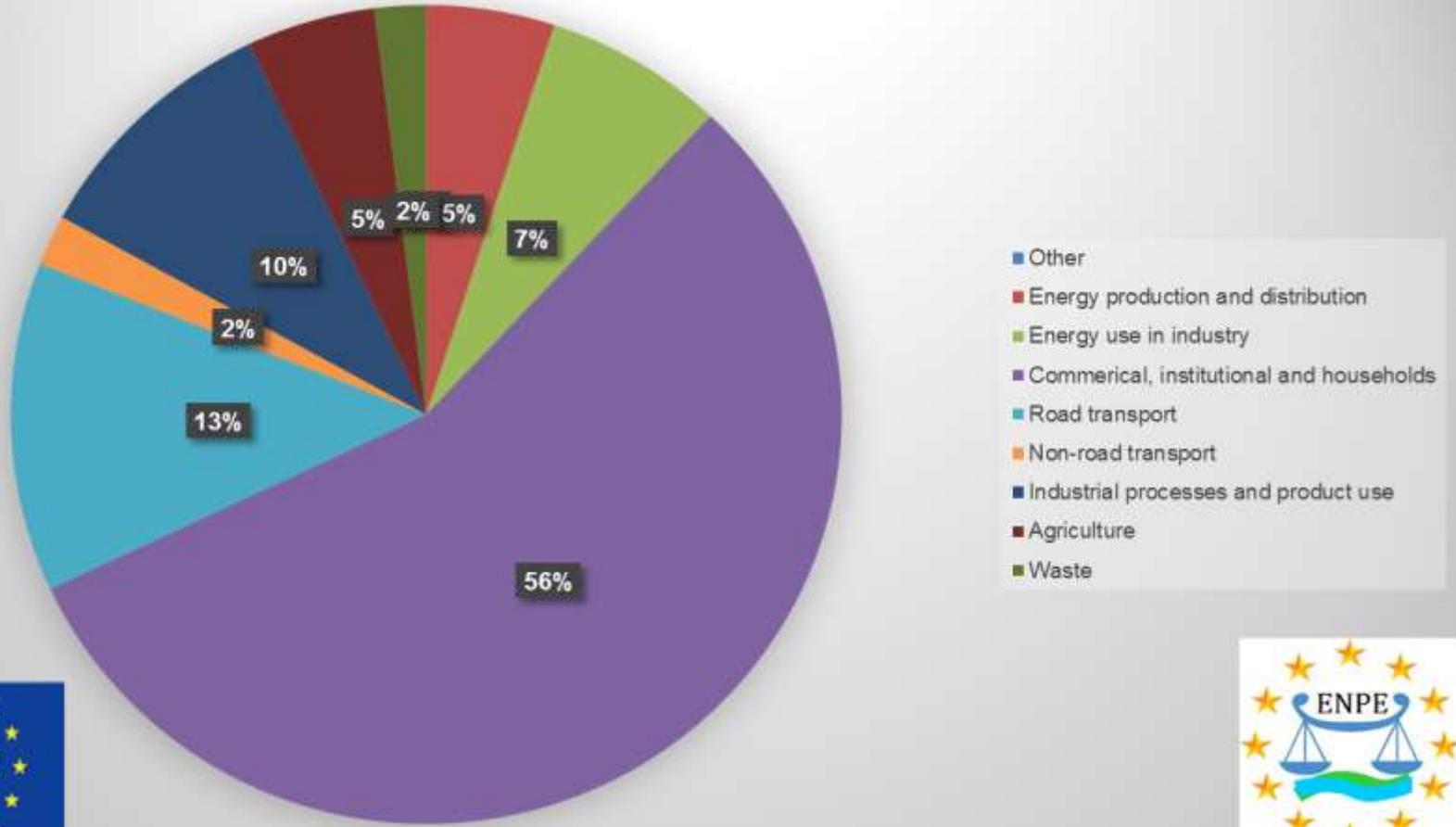




Report of Professor Luke Clancy



Sources of PM_{2.5} - EEA



Air pollution prosecutions



Difficult to detect



Working Group 3

- Meetings:
- 24 March 2017 and 30 June 2017



- Questionnaire
- Case reports for database
- Interim Report January 2018



Working Group 3: Survey

- Air pollution offences not widely prosecuted
- Odour not prosecuted in some Member States
- Nearly all prosecutions in courts of first instance –
dissuasive sentencing is needed to address serious
offences
- Fragmented nature of environmental enforcement in
some states – difficult to get conclusive data for each
Member State
- We need your help



EU Legislation

- EU, 1994, Directive **94/63/EC** of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations (OJ L 365, 20.12.2014, p. 24–33) (CELEX:31994L0063)



EU Legislation

- EU, 1997, Directive **97/68/EC** of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (OJ L 059, 27.02.1998, pp. 1–86) (CELEX: 31997L0068)



EU Legislation

- EU, 2001, Directive **2001/80/EC** of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309, 27.11.2001, p. 22–30) (CELEX 32001L0081)



EU Legislation

- EU, 2003, Directive **2003/17/EC** of the European Parliament and of the Council of 3 March 2003 amending Directive **98/70/EC** relating to the quality of petrol and diesel fuels (OJ L 76, 22.3.2003, p. 10–19) (CELEX:32003L0017)



EU Legislation

- EU, 2004, Directive **2004/107/EC** of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (OJ L 23, 26.1.2005, pp. 3–16) (CELEX: 32004L0107)



EU Legislation

- EU, 2008, Directive **2008/50/EC** of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, pp. 1–44) (CELEX: 32008L0050)



EU Legislation

- EU, 2009a, Directive **2009/30/EC** of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC (OJ L 140, 5.6.2009, pp. 88–113)



EU Legislation

- EU, 2009b, Directive **2009/125/EC** of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign References Air quality in Europe (OJ L 285, 31.10.2009, pp. 10–35) (CELEX: 32009L0125)



EU Legislation

- EU, 2009c, Directive **2009/126/EC** of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refueling of motor vehicles at service stations (OJ L 285, 31.10.2009, pp. 36–39) (CELEX: 32009L0126)



EU Legislation

- EU, 2010a, Directive **2010/75/EU** of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, pp. 17–119) (CELEX: 32010L0075)



EU Legislation

- EU, 2010b, Directive **2010/31/EU** of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, pp. 13–35) (CELEX:32010L0031)



EU Legislation

- EU, 2015, Directive (EU) **2015/2193** on the limitation of emissions of certain pollutants into the air from medium combustion plants (OJ L 313, 28.11.2015, pp. 1–19) (CELEX:32015L2193)



Sample case report for database

Case Report Form

Name of Defendant:	Nutricia Infant Nutrition Ltd (P0792-02)
Year of Prosecution:	2016
Relevant Legislation:	Environmental Protection Act 1999, s.s 8, 86(6)
Jurisdiction of the Court:	District Court (Court of first Instance)
Plea:	Pleaded guilty to five out of the ten charges. Other charges withdrawn on the basis of those guilty pleas.

Abstract of the Case:

The defendant was a company operating an infant milk formula manufacturing facility. It was subject to an Industrial Emissions licence. There were a number of breaches of the conditions of this licence in the following ways:

- * **Offensive odours were reported by civilian witnesses in nearby residential areas.**
- * **a hydrogen sulphide emission limit value breach (ELVs)**
- * **late notification of uncontrolled release from the Waste Water Treatment plant sand filters.**

The prosecution alleged that those breaches resulted in impairment of and interference with amenities in the environment beyond the installation boundary. The prosecution further alleged that there was a late notification to the Environmental Protection Agency of an incident with the potential for environmental contamination of surface or ground water.



Next steps

- Collate best-practice methods e.g. for evidence gathering
- Deliver Training Workshop for practitioners in Cyprus (January/ February 2019)
- Training materials to assist prosecutors
- Publish and share by Summer 2019
- Continue to provide air pollution cases to ENPE database



Reference material

- EEA, 2017, Air Quality in Europe - 2017 report, European Environment Agency
- EEA, 2015a, Air quality in Europe — 2015 report, EEA Report No 5/2015, European Environment Agency (<http://www.eea.europa.eu/publications/air-quality-ineurope-2015>)



Thank you for listening

For more information about ENPE, LIFE-ENPE project and Working Group 3, please contact shaun.robinson@environment-agency.gov.uk

Site:

<https://www.environmentalprosecutors.eu/air-pollution>

