

INVESTIGATING AND PROSECUTING ENVIRONMENTAL CRIMES IN TURKEY

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International Treaties*

Ratified by Turkiye

Main Topic of Treaties	Ratified/in total
Climate	• 5/6
Biodiversity and preservation	• 7/11
Pollution, Waste, Toxic and Hazardous Substances	• 14/38
Participation and procedures	• 0/7
Mediterranean Region	• 13/16
Law of the Sea	• 13/29

• <https://www.icj.org/wp-content/uploads/2022/03/Turkey-AccessToJusticeEnvironmentHR-Publications-Reports-Thematic-reports-2022-ENG.pdf>
• The numbers of treaties also include protocols and amendments to the treaties.

Domestic Legislation

- **Constitution**

- ✓ Art. 56: «Everyone has the right to live in a healthy and balanced environment. It is the duty of the State and its citizens to improve the natural environment, to protect the environmental health and to prevent environmental pollution.»

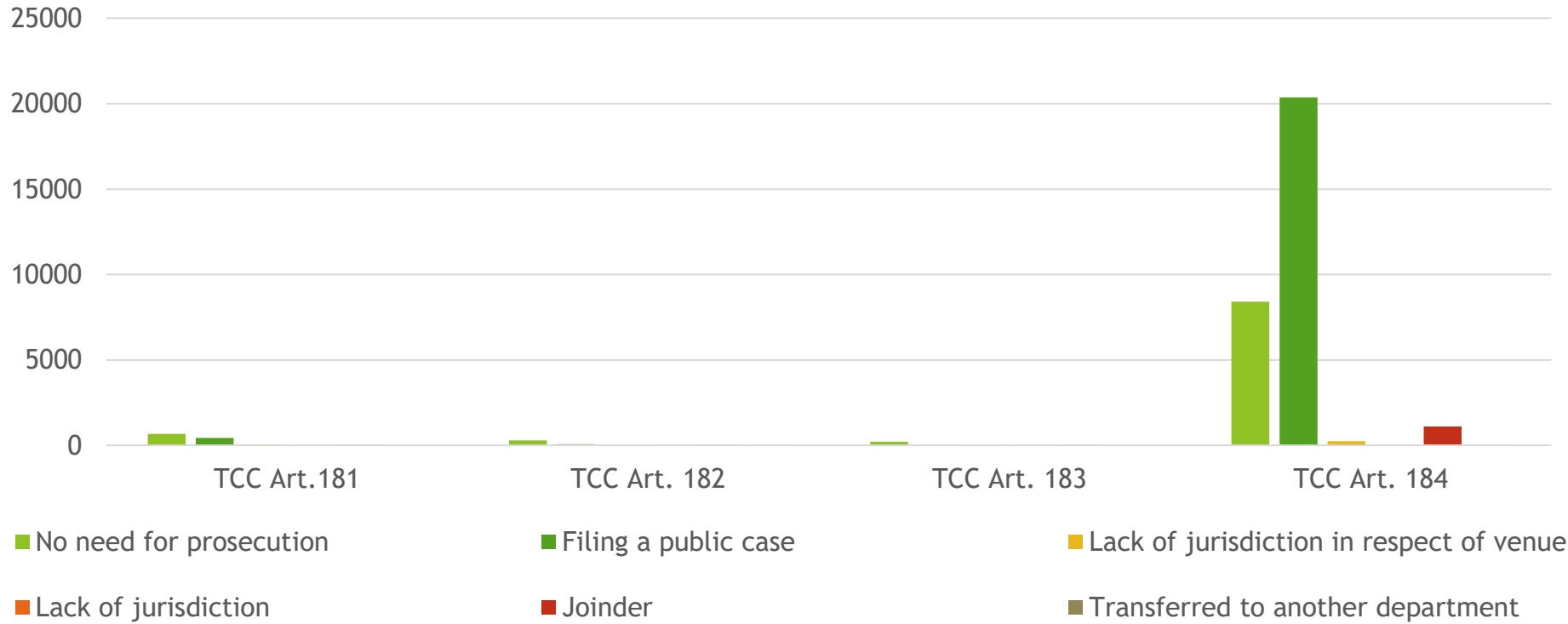
- **The Environment Law No 2872**

- ✓ Art. 8: Prohibition of pollution
- ✓ Art.9: protection of the environment

- **Criminal Code** (Part 2: Offences Against the Environment Art. 181, 182, 183, 184)

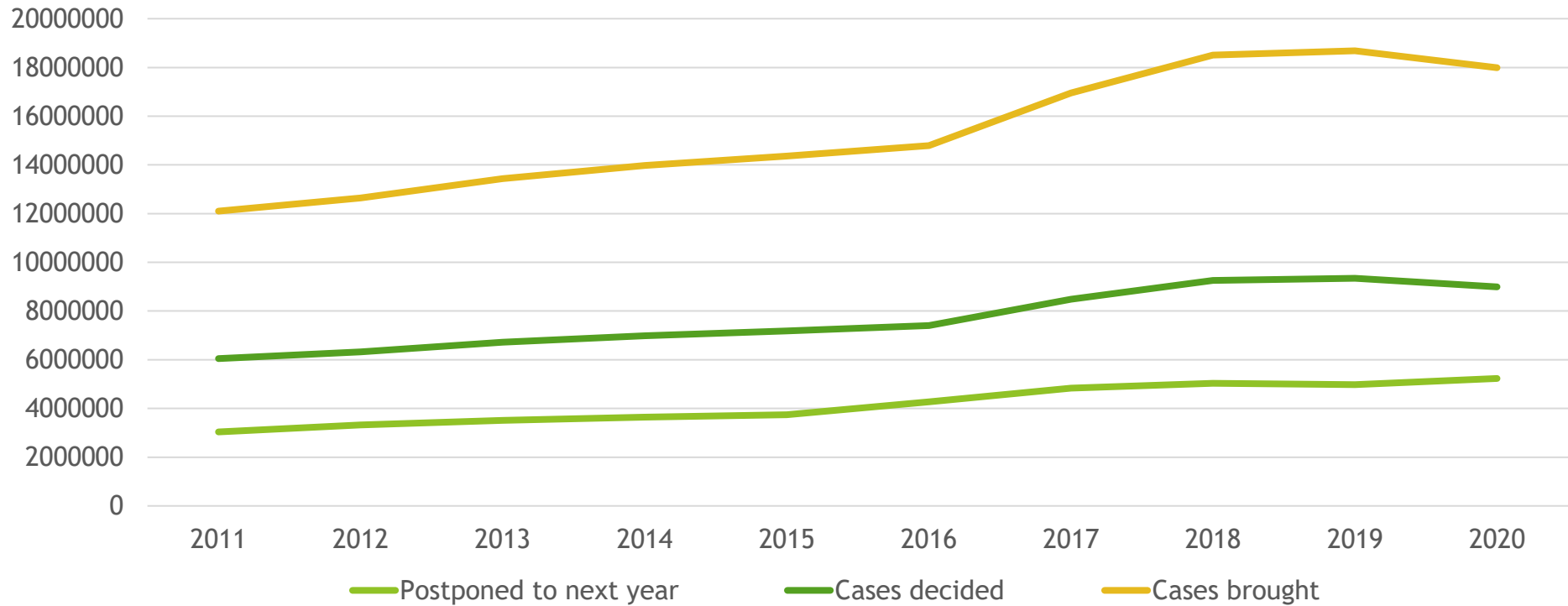
- ✓ Art. 181: Intentional Pollution of the Environment
- ✓ Article 182: Pollution of the Environment due to Recklessness
- ✓ Article 183: Causing Noise
- ✓ Article 184: Pollution Caused by Construction

Decisions Rendered for Suspects at the Investigation Stage at the Chief Public Prosecutors' Offices in accordance with Turkish Criminal Code Articles 181-184



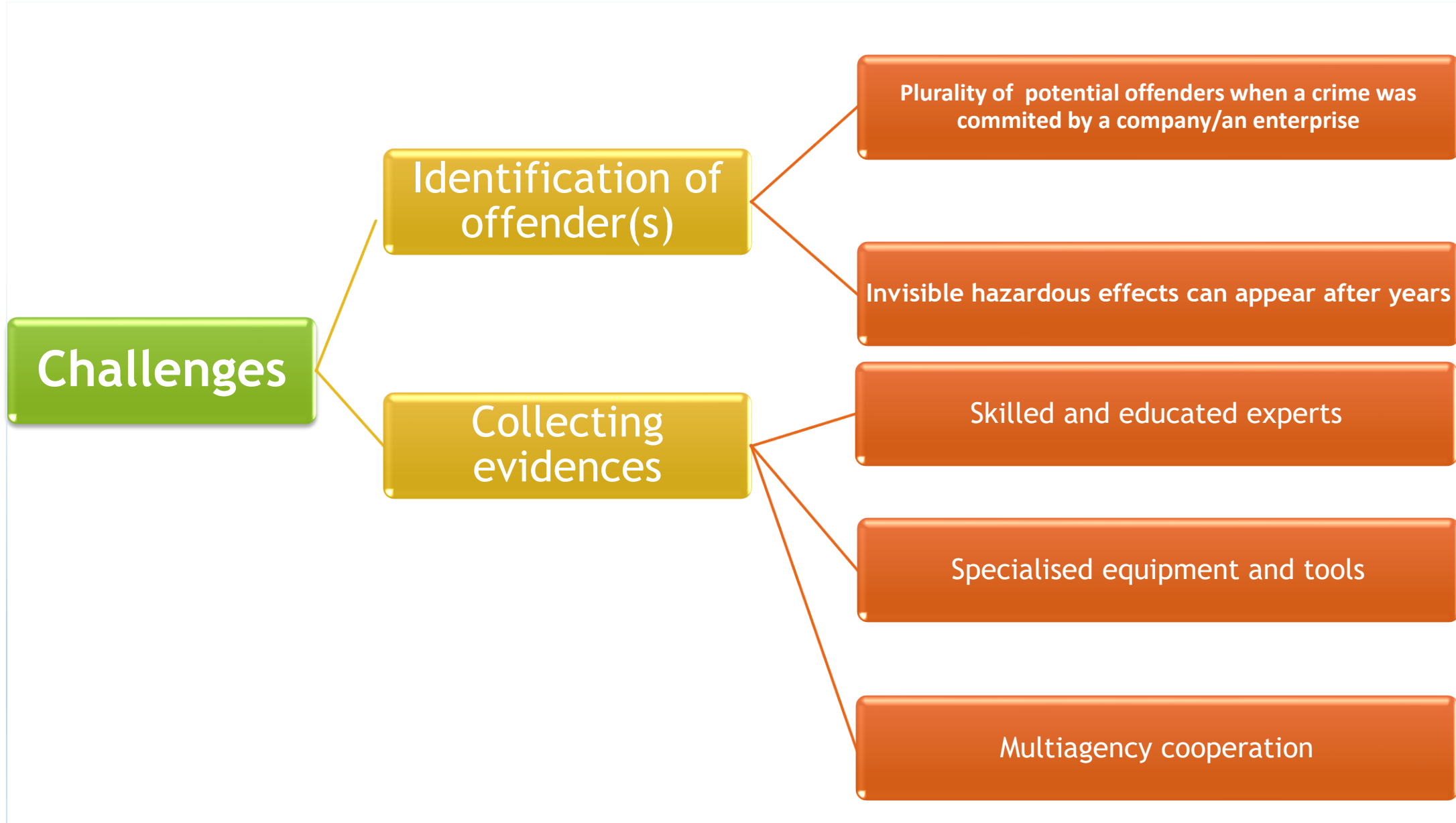
	No need for prosecution	Filing a public case	Lack of jurisdiction in respect of venue	Lack of jurisdiction	Joinder	Transferred to another department
TCC Art.181	671	431	61	7	42	0
TCC Art. 182	290	65	5	2	9	1
TCC Art. 183	218	18	8	1	9	0
TCC Art. 184	8413	20373	250	3	1106	1

Activities of the Chief Public Prosecutors' Offices at the investigation stage 2011-2020



	Cases brought	Cases decided	Postponed to next year
2011	6050030	3012471	3037559
2012	6323397	3003292	3320105
2013	6716800	3201721	3515079
2014	6985818	3344363	3641455
2015	7183574	3441635	3741939
2016	7398616	3131871	4266745
2017	8479555	3647276	4832279
2018	9252208	4216520	5035688
2019	9342676	4364030	4978646
2020	8995141	3760903	5234238

Challenges in Investigating of the Environmental Crimes



Challenges in Investigating and Prosecuting Environmental Crimes

- Identification of offender(s) & Duly collecting evidences are the main challenges in investigating and prosecuting environmental crimes,
 - Crimes like the illegal emission or discharge of substances into air, water or soil, illegal trade in wildlife, illegal trade in ozone-depleting substances and illegal shipment or dumping of waste can have devastating effects on the environment and human health but often remain invisible. Hazardous effects of environmental crimes can appear after years.
 - This characteristic of the environmental crimes makes identification of offender(s) and duly collecting evidences complicated.
 - It is, in particular, complicated to identify offender(s) when a crime is committed under a company's activities of which different phases are within the responsibility of more than one person and when the responsible person has been replaced. In those cases it is difficult to identify date of crime, i.e. when hazardous effects of the company's activity have appeared and who are the responsible people for carrying out the activity at that time.

Bay Göcek Case

- **Offence** : To discharge of sewage into the sea without refining thorough the pipes by Göcek Sewage treatment facility (Waste Reception Facility)
- Analysis of samples taken from the Plant shows that amount of waste is more than the maximum level which has to be and causes pollution of the sea.
- Göcek Waste Reception Facility is a public legal person affiliated to the Mugla Metropolitan Municipality.
- Following an investigation, public prosecutor brought a criminal case against O.A. who was the shift supervisor and M.K. who was the facility supervisor at the date of crime in which the sewage was discharged into the sea.
- The court of first instance acquitted two offenders on the grounds that the acts of the offenders have not constitutes crime of the pollution of the Environment



Bay Göcek Case (cont.)

- Court of Cassation overturned the decision of the court of first instance on the ground that the first instance court did not take into consideration that
 - the Mugla Metropolitan Municipality inform that S.T. was the responsible person for giving order to discharge of sewage.
 - offender O.A. said in his statement that S.T. ordered him to discharge of sewage.
- the Court of Cassation addressed that the court of first instance should have notified public prosecution office about S.T. and should have joined its case with the case which would be brought against S.T. And then it should have made a decision after determining type of responsibilities of three offenders in accordance with a report of a group of experts consisting of chemical engineer, environment engineer and aquaculture expert.

(Decision of CoC, 18.01.2022, 2021/3075 E., 2022/2885 K.)



River Ergene Case

- **Offence :** To discharge of waste into the River Ergene contrary to the technical procedures as defined in the relevant legislation by industrial organizations situated around River Ergene between 2008 and 2011.
- Investigation has taken for 5 years because of complicated identification process of the offenders and of collecting evidences.
- Public Prosecutor in Uzunköprü has asked the Ministry of Environment and Forest the names of organizations which discharge their waste into the River Ergene.
- The Uzunköprü Criminal Judgeships of Peace has conducted a judicial inspection and has taken samples from the River.
- The samples have been send to the Scientific and Technological Research Council (TUBITAK)
- The Public Prosecutor brought a criminal case against 23 offenders in 2015.



River Ergene Case (cont.)

- The Uzunköprü Criminal Courts of First Instance imposed on 20 offenders 10 months imprisonment and fifteen thousands Turkish Liras judicial fine on 5 of November 2021.
- The decision was appealed.
- The proceedings is going on before the 23rd Chamber of Istanbul Regional Court of Appeal.

Conclusion

- Identification of offender(s) & Duly collecting evidences:
 - Public prosecutors inquire in a detailed manner who may be linked with the activity which constituted an environmental crime by hearing victims, witnesses, if necessary getting an expert opinion, asking information from management board of the company and if necessary, from related public authorities having authority to control the company and carrying out crime scene investigation.
- Duly collecting evidences:
 - Public prosecutors appoint an expert or, if a complicated crime is at stake, a group of experts who is skilled and educated in the crime related topic. Experts should be selected from experts list made by the Regional Council of Expert Witness of the Ministry of Justice in September every year.
 - Duly collected evidences are secured in judicial depository within court house. If the evidence needs to be kept in special circumstances, it can be deposited in the warehouse or laboratory of related public authorities by the end of the criminal proceedings.
 - If the place in which the crime was committed and the place in which the hazardous effects of the crime has appeared, public prosecutor makes collaboration with the authorities of the place in which the hazardous effects of the offence appeared.

THANK YOU FOR YOUR ATTENTION

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