

EUROPEAN PARLIAMENT

2004



2009

Committee on Legal Affairs

2007/0022(COD)

14.3.2008

AMENDMENTS 28 - 76

Draft report
Hartmut Nassauer
(PE400.698v01-00)

on the proposal for a directive of the European Parliament and of the Council
on the protection of the environment through criminal law

Proposal for a directive
(COM(2007)0051 – C6-0063/2007 – 2007/0022(COD))

AM_Com_LegReport

Amendment 28
Tadeusz Zwiefka

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) It is clear that the success of efforts to tackle environmental crime in a crossborder context will depend on an appropriate role for bodies coordinating international pre-trial proceedings (Europol, Eurojust, joint investigation teams) and greater effectiveness of these bodies in terms of competences and organisation.

Or. pl

Amendment 29
Georgios Papastamkos

Proposal for a directive
Recital 5

Text proposed by the Commission

Amendment

By entrusting judicial authorities, rather than administrative authorities, with the task of imposing sanctions, responsibility for investigating and enforcing the respect of environmental regulations falls to authorities which are independent of those which grant exploitation licences and discharge authorisations.

deleted

Or. el

Justification

Superseding the principle of ‘loyal cooperation’ and the established legal principle of ‘effet utile’. Moreover, Article 10 of the Treaty establishing the European Community provides that ‘Member States shall take all appropriate measures, whether general or particular, to ensure

fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks'.

Amendment 30

Neena Gill

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The Annexes to this Directive contain provisions which should be subject to measures which relate to criminal law, in order to ensure that the rules on environmental protection are fully effective.

Or. en

Justification

This amendment is intended to bring the text into line with ECJ case law, and to make it clear that the purpose of the Directive is to oblige Member States to make infringements of Community law and national implementing law a criminal offence, where that is necessary in order to ensure their proper enforcement.

Amendment 31

Jacques Toubon, Jean-Paul Gauzès

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The legislation listed in the Annexes to this Directive contains provisions which should be subject to measures which relate to criminal law, in order to ensure that the rules on environmental protection are fully effective.

Or. en

Amendment 32
Neena Gill

Proposal for a directive
Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) The obligations imposed by this Directive relate only to the provisions of the legislation listed in the Annexes to this Directive which entail an obligation for Member States, when implementing that legislation, to provide for prohibitive measures.

Or. en

Justification

This is intended to make it clear that the Directive can only oblige Member States to make infringements of Community law a criminal offence where that Community law obliges Member States to have prohibitive measures in place.

Amendment 33
Jacques Toubon, Jean-Paul Gauzès

Proposal for a directive
Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) The obligations imposed by this Directive relate only to the provisions of the legislation listed in the Annexes to this Directive which entail an obligation for Member States, when implementing that legislation, to provide for prohibitive measures.

Or. en

Amendment 34
Michl Ebner

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) In order to achieve effective protection of the environment, participation in and instigation of such activities should also be considered a criminal offence.

Amendment

(9) In order to achieve effective protection of the environment, participation in and instigation of such activities ***or conduct which by omission and/or commission causes damage and/or a risk of serious damage to the environment*** should also be considered a criminal offence ***and, for effective environmental protection and application of the preventive and precautionary principles, the relative offending items should be the subject of proper precautionary provisions.***

Or. it

Amendment 35
Georgios Papastamkos

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The directive obliges the Member States to include in their national legislation criminal sanctions for serious violations of Community environmental protection law. The directive does not create obligations with regard to the implementation of such sanctions or of other available legal instruments in individual cases.

Or. el

Justification

Pursuant to the Court of Justice judgment of 23 October 2007 (C-440/05), although in principle criminal law and the rules of criminal procedure do not fall within Community competence, the Community legislator can require the Member States to make provision for sanctions of this kind to ensure that the laws that it enacts in a specific sector are fully effective.

Amendment 36 **Jean-Paul Gauzès**

Proposal for a directive **Recital 12**

Text proposed by the Commission

(12) Such an approximation is particularly important where the offences have **serious** results or the offences are committed in the framework of criminal organisations which play a significant role in environmental crime.

Amendment

(12) Such an approximation is particularly important where the offences have **seriously damaging** results or the offences are committed in the framework of criminal organisations which play a significant role in environmental crime.

Or. fr

Amendment 37 **Georgios Papastamkos**

Proposal for a directive **Recital 13**

Text proposed by the Commission

(13) As this Directive provides for minimum rules, Member States are free to adopt or maintain more stringent provisions regarding the effective criminal law protection of the environment.

Amendment

(13) As this Directive provides for minimum rules, Member States are free to adopt or maintain more stringent provisions regarding the effective criminal law protection of the environment. ***These provisions must be compatible with the Treaty establishing the European Community.***

Or. el

Justification

Pursuant to Article 6 of the Treaty establishing the European Community, 'environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development'. Moreover, pursuant to Article 176 of the Treaty establishing the European Community, 'the protective measures adopted pursuant to Article 175 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. They shall be notified to the Commission'.

Amendment 38

Jacques Toubon, Nicole Fontaine, Jean-Paul Gauzès

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) The Euratom Treaty and its secondary legislation regulate environmental protection with regard to nuclear activity. As a result, the unlawfulness of actions which affect the environment as a result of nuclear activities can only be defined by reference to the Euratom Treaty and its secondary legislation.

Or. fr

Justification

Chapter III of the Euratom Treaty is the legal basis for Community action in the area of environmental protection where nuclear activity is involved. It is most important that the text be brought into line by specifying that the Euratom Treaty remains the basis for nuclear-related issues. Consequently, any infringement of Community legislation passed on the basis of the Treaty must, if it stems from nuclear activity, be considered unlawful.

Amendment 39
Jean-Paul Gauzès

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) Since the objectives of the action to be taken, namely to ensure a more effective protection of the environment, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment

(15) Since the objectives of the action to be taken, namely to ensure a more effective protection of the environment, ***for example by combating large-scale organised crime which causes serious environmental damage***, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Or. fr

Amendment 40
Monica Frassoni, Diana Wallis, Aloyzas Sakalas, Dan Jørgensen

Proposal for a directive
Article 2 – point a

Text proposed by the Commission

(a) “unlawful” means infringing Community legislation or a law, an administrative regulation or a decision taken by a competent authority in a Member State aiming at the protection of the environment.

Amendment

(a) “unlawful” means infringing Community legislation or a law, an administrative regulation or a decision taken by a competent authority in a Member State aiming at the protection of the environment ***and public health***.

Or. en

Justification

In accordance with ENVI's opinion, the amendment aims to support the Commission's definition of "unlawful", in contrast with the rapporteur's proposal to include a list in the annex of "Community legislation infringement of which constitutes unlawful conduct" which would not enhance legal certainty and which would need constant updating to be in line with current legislation. The offences dealt with in Article 3 of the proposal cover issues relating to various aspects of life and public health, as well as to the environment, which justify the suggested addition.

Amendment 41

Jacques Toubon, Nicole Fontaine, Jean-Paul Gauzès

Proposal for a directive

Article 2 – point a

Text proposed by the Commission

(a) "unlawful" means infringing Community legislation or a law, an administrative regulation or a decision taken by a competent authority in a Member State ***aiming at the protection of the environment;***

Amendment

(a) "unlawful" means

- infringing Community legislation ***laid down in Annex A, or***

- ***for activities concerning the EURATOM Treaty, any infringement of Community legislation as laid down in Annex B, or***

- a law, an administrative regulation or a decision taken by a competent authority in a Member State ***implementing Community legislation mentioned in the first and second indents;***

Or. fr

Justification

Chapter III of the Euratom Treaty is the legal basis for Community action in the area of environmental protection where nuclear activity is involved. It is most important that the text be brought into line by specifying that the Euratom Treaty remains the basis for nuclear-related issues. Consequently, any infringement of Community legislation passed on the basis of the Treaty must, if it stems from nuclear activity, be considered unlawful.

Amendment 42

Jacques Toubon, Jean-Paul Gauzès

Proposal for a directive

Article 2 – point aa (new)

Text proposed by the Commission

Amendment

(aa) "protected wild fauna and flora species" means,

1) for the purposes of Article 3(g), the species listed in Annex IV of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, and the wild bird species mentioned in Articles 1 and 5 of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds;

2) for the purposes of Article 3(ga), the species listed in Annexes A or B of Council Directive 338/97/EC of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein.

Or. fr

Justification

There must be a precise definition of scope, in the interest of legal clarity as regards penal provisions. The protection of species of wild fauna and flora must also take into account wild bird species. It is therefore appropriate for the species of wild birds mentioned in Articles 1 and 5 of Directive 79/409/EEC of 2 April 1979 to be included.

Amendment 43

Monica Frassoni, Diana Wallis, Aloyzas Sakalas, Dan Jørgensen

Proposal for a directive

Article 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) “protected wild fauna and flora species” means

(i) for the offence relating to possession/taking/killing/destruction, those listed in:

– Annex IV to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and wild fauna and flora¹;

– Annex 1 to, and referred to in Article 4(2) of, Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds² and

(ii) for the trade-related offence, those listed in:

– Annexes A or B to Council Regulation 338/97/EC of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein³;

¹ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 2006/105/EC (OJ L 363, 20.12.2006, p. 368.

² OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 2006/105/EC.

³ OJ L 61, 3.3.1997, p. 1. Regulation as last amended by Commission Regulation (EC) No 1332/2005 (OJ L 215, 19.8.2005, p. 1).

Or. en

Justification

A definition of “protected wild fauna and flora species” should be added to the Commission’s definitions contained in Article 2.

Amendment 44

Monica Frassoni, Diana Wallis, Aloyzas Sakalas, Dan Jørgensen

Proposal for a directive

Article 2 – point a b (new)

Text proposed by the Commission

Amendment

(ab) “habitat within a protected site”, means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 79/409/EEC, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Directive 92/43/EEC.

Or. en

Justification

A definition of “habitat within a protected site” should be added to the Commission’s definitions contained in Article 2.

Amendment 45

Jacques Toubon, Jean-Paul Gauzès

Proposal for a directive

Article 2 – point ab (new)

Text proposed by the Commission

Amendment

(ab) "protected habitat" means any habitat of a species for which an area has been declared a special protection area within the meaning of Article 4(1) or (2) of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds¹, and any natural habitat of a species for which an area has been declared a special area of conservation within the meaning of Article 4(4) of Council Directive 92/43/EEC of

***21 May 1992 on the conservation of
natural habitats and of wild fauna and
flora.***

Or. fr

Justification

‘Protected habitat’ needs to be defined. The definition should contain references not to species but to the habitats of species for which special protection areas or special conservation areas have been designated.

Amendment 46
Hans-Peter Mayer

Proposal for a directive
Article 2 – point b

Text proposed by the Commission

(b) “legal person” means any legal entity having such status under the applicable national law, except for States or other public bodies acting in the exercise of their ***sovereign rights and for*** public international organisations.

Amendment

(b) “legal person” means any legal entity having such status under the applicable national law, except for States or ***any*** other public bodies acting in the exercise of their ***prerogative of public power, as well as*** public international organisations.

Or. de

Justification

In its definitions the directive must be uniform with other directives that Parliament has adopted, in this case P6_TA(2007)0145 on COM (2006)0168, adopted on 25 April 2007.

Amendment 47
Katalin Lévai, Gyula Hegyi

Proposal for a directive
Article 2 - point b

Text proposed by the Commission

(b) “legal person” means any legal entity

Amendment

(b) “legal person” means any legal entity

having such status under the applicable national law, except for States or other public bodies acting in the exercise of their sovereign rights and for public international organisations.

having such status under the applicable national law, ***including companies not classified as legal persons in a Member State***, except for States or other public bodies acting in the exercise of their sovereign rights and for public international organisations.

Or. hu

Justification

The national laws of certain Member States may permit the establishment of companies pursuing economic activities which do not classify as legal persons yet which might cause pollution.

Amendment 48 **Neena Gill**

Proposal for a directive **Article 2 – point b a (new)**

Text proposed by the Commission

Amendment

(ba) “habitat within a protected site” means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 79/409/EEC or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Directive 92/43/EEC.

Or. en

Justification

It is important to ensure that the habitats that are protected are the ones within protected sites, as it is those sites that are protected by EC legislation and Member States’ obligations only relate to habitats within these sites. Habitats outside these protected sites are protected under national law.

Amendment 49
Francesco Enrico Speroni

Proposal for a directive
Article 3 – introductory part

Text proposed by the Commission

Member States shall ensure that the following conduct constitutes a criminal offence, when committed intentionally or with at least serious ***negligence***:

Amendment

Member States shall ensure that the following conduct constitutes a criminal offence, when committed intentionally or with at least serious ***fault***:

Or. it

Justification

The concept of ‘negligence’ is reductive, as such, together with those of ‘imprudence’ and ‘inexperience’, and is included in the concept of ‘serious fault’.

Amendment 50
Katalin Lévai, Gyula Hegyi

Proposal for a directive
Article 3

Text proposed by the Commission

Member States shall ensure that the following conduct constitutes a criminal offence, when committed intentionally or with at least serious negligence:

Amendment

Member States shall ensure that the following conduct constitutes a criminal offence, when committed intentionally or with at least serious negligence, ***irrespective of the territorial extent of the consequences of the criminal offence***:

Or. hu

Justification

The legislation must also apply to cross-border pollution.

Amendment 51
Katalin Lévai, Gyula Hegyi

Proposal for a directive
Article 3 - point a

Text proposed by the Commission

(a) the discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes death or serious injury to any person;

Amendment

(a) the discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil, **rock** or water, which causes death or serious injury to any person **or any animal which is protected by a wildlife protection agreement**;

Or. hu

Justification

Hazardous material which finds its way into fissures and rocks also poses environmental risks. Ensuring adequate protection for protected animals is also the responsibility of the legislator.

Amendment 52
Hans-Peter Mayer

Proposal for a directive
Article 3 – point a

Text proposed by the Commission

(a) the discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes death or serious injury to any person;

Amendment

(a) the **unlawful** discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes **or is likely to cause** death or serious injury to any person;

Or. de

Justification

The conduct in point (a) must, as in points (b), (c), (d), (f), (h), and (i), be unlawful. And the possibility of harm must be punishable as it is in Article 3(b), (c), (d) and (f).

Amendment 53
Katalin Lévai, Gyula Hegyi

Proposal for a directive
Article 3 - point b

Text proposed by the Commission

(b) the unlawful discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

Amendment

(b) the unlawful discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil, **rock** or water, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

Or. hu

Justification

Hazardous material which finds its way into fissures and rocks also poses environmental risks.

Amendment 54
Katalin Lévai, Gyula Hegyi

Proposal for a directive
Article 3 - point c

Text proposed by the Commission

(c) the unlawful treatment, including disposal and storage, transport, export or import of waste, including hazardous waste, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

Amendment

(c) the unlawful treatment, including disposal and storage, **recovery**, transport, export or import of waste, including hazardous waste, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, **rock**, water, animals or plants;

Or. hu

Justification

Illegal recovery, such as incineration for energy purposes, also poses the risk of environmental pollution. Hazardous material which finds its way into fissures and rocks also poses environmental risks.

Amendment 55

Katalin Lévai, Gyula Hegyi

Proposal for a directive

Article 3 - point d

Text proposed by the Commission

(d) the unlawful operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant, causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

Amendment

(d) the unlawful operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant, causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, **rock**, water, animals or plants;

Or. hu

Justification

Hazardous material which finds its way into fissures and rocks also poses environmental risks.

Amendment 56

Katalin Lévai, Gyula Hegyi

Proposal for a directive

Article 3 - point f

Text proposed by the Commission

(f) the unlawful manufacture, treatment, storage, use, transport, export or import of nuclear materials or other hazardous radioactive substances which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;

Amendment

(f) the unlawful manufacture, treatment, storage, use, transport, export or import of nuclear materials or other hazardous radioactive substances which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, **rock**, water, animals or plants;

Or. hu

Justification

Hazardous material which finds its way into fissures and rocks also poses environmental risks.

Amendment 57

Katalin Lévai, Gyula Hegyi

Proposal for a directive

Article 3 - point g

Text proposed by the Commission

(g) the unlawful possession, **taking**, damaging, killing or trading of or in specimens of protected wild fauna and flora species or parts or derivatives thereof;

Amendment

(g) the unlawful possession, **removal from their habitat**, damaging, killing or trading of or in specimens of protected wild fauna and flora species or parts or derivatives thereof;

Or. hu

Justification

There is a clear need to define removing protected animals from their habitats.

Amendment 58

Monica Frassoni, Diana Wallis, Aloyzas Sakalas, Dan Jørgensen

Proposal for a directive

Article 3 – point g

Text proposed by the Commission

(g) the unlawful possession, taking, damaging, killing or trading of or in specimens of protected wild fauna and flora species or parts or derivatives thereof;

Amendment

(g) the unlawful possession, taking, damaging, **processing**, killing or trading of or in specimens protected wild fauna and flora species or parts or derivatives thereof;

Or. en

Justification

The Commission's proposal to have the word "unlawful" in every single listed offence brings legal certainty. The rapporteur's proposal to have the word "unlawful" in the introduction of

Article 3, to delete the sentence “or with at least serious negligence “and to include in Article 3a a new “limited” category of acts which constitute criminal offences substantially limits the scope of the Directive. As regards this specific article, the Commission’s wording has been completed.

Amendment 59

Katalin Lévai, Gyula Hegyi

Proposal for a directive

Article 3 - point h

Text proposed by the Commission

(h) the unlawful **significant** deterioration of a protected habitat;

Amendment

(h) the unlawful deterioration **or destruction** of a protected habitat;

Or. hu

Justification

All deterioration or destruction of protected habitats must be covered by the directive.

Amendment 60

Monica Frassoni, Diana Wallis, Aloyzas Sakalas, Dan Jørgensen

Proposal for a directive

Article 3 – point h

Text proposed by the Commission

(h) the unlawful significant deterioration of a protected habitat;

Amendment

(h) the unlawful significant deterioration of a protected habitat **within a protected site**;

Or. en

Justification

This addition is necessary for the propose of coherence with the new definition in the amendment to Article 2 (point a b).

Amendment 61
Luis de Grandes Pascual

Proposal for a directive
Article 3 – point h

Text proposed by the Commission

(h) ***the unlawful*** significant deterioration of a ***protected*** habitat;

Amendment

(h) ***any conduct that causes*** significant deterioration of a habitat ***in a protected area***;

Or. es

Justification

The criminal category proposed is limiting and would exclude conduct such as causing a fire, which does not just place a protected ecological area at risk but actually destroys it.

Amendment 62
Neena Gill

Proposal for a directive
Article 3 – point h

Text proposed by the Commission

(h) ***the unlawful*** significant deterioration of a ***protected*** habitat;

Amendment

(h) ***any conduct which causes the*** significant deterioration of a habitat ***within a protected site***;

Or. en

Justification

In order to ensure consistency with the approach of the rest of this Article, which defines the offence in terms of the conduct that causes particular outcomes, it is necessary to include a reference to conduct in relation to habitats. It is not necessary however to define conduct in more detail; to do so may create inconsistencies with recitals 6a and 6b.

Amendment 63
Georgios Papastamkos

Proposal for a directive
Article 3 h

Text proposed by the Commission

Amendment

(h) the **unlawful** significant deterioration of a protected habitat

(h) the significant deterioration of a protected habitat **without prior authorisation from the relevant public authorities,**

Or. el

Justification

Legal wording, and to emphasise that the Member States are responsible for maintaining and protecting protected habitats.

Amendment 64
Monica Frassoni, Diana Wallis, Aloyzas Sakalas, Dan Jørgensen

Proposal for a directive
Article 3 – point i

Text proposed by the Commission

Amendment

(i) the unlawful trade in or use of ozone depleting substances;

(i) the unlawful trade in, **or the manufacture, placing on the market, distribution** or use of ozone-depleting substances;

Or. en

Justification

The Commission's proposal to have the word "unlawful" in every single listed offence brings legal certainty. The rapporteur's proposal to have the word "unlawful" in the introduction of Article 3, to delete the sentence "or with at least serious negligence" and to include in Article 3a a new "limited" category of acts which constitute criminal offences substantially limits the scope of the Directive. As regards this specific article, the Commission's wording has been completed.

Amendment 65
Georgios Papastamkos

Proposal for a directive
Article 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) the starting of fires (arson) in forests or wooded areas or in areas that have been earmarked for forestation or reafforestation.

Or. el

Justification

Arson in forests constitutes an offence within the meaning of violation of environmental protection, particularly the unlawful significant deterioration of a protected habitat. The destruction of forests in southern Europe caused by arson attacks underlines the very urgent need to improve the proposed directive and widen its scope.

Amendment 66
Michl Ebner

Proposal for a directive
Article 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) the possession or use of modes of sea transport with a scientifically demonstrated highly adverse environmental impact (including the possession or use of single-hull ships known as “carrette del mare” [floating wrecks]).

Or. it

Amendment 67
Titus Corlăţean

Proposal for a directive
Article 4

Text proposed by the Commission

4. Member States shall ensure that ***participation in or*** instigation of the conduct referred to in Article 3 constitutes a criminal offence.

Amendment

4. Member States shall ensure that instigation of ***and aiding and abetting*** the conduct referred to in Article 3 constitutes a criminal offence.

Or. en

Amendment 68
Georgios Papastamkos

Proposal for a directive
Article 4

Text proposed by the Commission

Participation *and instigation*

Member States shall ensure that participation in ***or instigation of the*** conduct referred to in Article 3 constitutes a criminal offence.

Amendment

Participation

Member States shall ensure that participation in ***the intentional*** conduct referred to in Article 3 constitutes a criminal offence.

Or. el

Justification

1. 'Participation' is a wide term which ex definitionem includes the meanings, among others, of instigation and of direct or simple complicity.

2. Participation limited to intentional conduct.

Amendment 69
Michl Ebner

Proposal for a directive
Article 4

Text proposed by the Commission

Member States shall ensure that participation in or instigation of the conduct referred to in Article 3 ***constitutes*** a criminal offence.

Amendment

Member States shall ensure that participation in or instigation of the conduct referred to in Article 3 ***is considered*** a criminal offence ***or, in general, shall ensure that conduct which by omission and/or commission causes damage and/or may constitute serious damage to the environment also constitutes a criminal offence.***

Or. it

Amendment 70
Michl Ebner

Proposal for a directive
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that, for effective environmental protection and application of the preventive and precautionary principles, the relative offending items shall, whether causing risk or actual damage, be subject to proper precautionary provisions (seizure of the offending item).

Or. it

Amendment 71
Titus Corlăţean

Proposal for a directive
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Precautionary measures

Member States shall introduce or maintain genuine precautionary measures to prevent environmental crimes.

Or. en

Amendment 72
Francesco Enrico Speroni

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall bring into force the ***laws, regulations and administrative*** provisions necessary to comply with this Directive by at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

1. Member States shall bring into force the provisions necessary to comply with this Directive by at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Or. it

Justification

There is no need to go into detail.

Amendment 73

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest. ***In the interests of the Community***, they shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Or. en

Justification

Given the increasing emphasis Parliament is putting on better law-making and application of Community law, it is important that the obligation to produce correlation tables, as proposed by the Commission, should not be deleted.

Amendment 74 Tadeusz Zwiefka

Proposal for a directive Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Training and information measures

At national level, it is essential for appropriate training and information measures relating to environmental criminal law to be applied with regard to the individual links in the chain of criminal responsibility, and for the issue of liability in environmental crimes to be included in training programmes for prosecutors and judges and in the work of

*organisations responsible for training
general court and public prosecution
officials.*

Or. pl

Amendment 75
Othmar Karas

Proposal for a directive
Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Ionising radiation

On the basis of the Euratom Treaty, secondary legislation has been adopted in the field of health and safety in order to protect the population and the environment against the risks of activities involving ionising radiation. The obligations requiring Member States to introduce criminal penalties pursuant to this Directive shall also cover, therefore, unlawful conduct infringing the legislation adopted pursuant to the Euratom Treaty.

Or. en

Amendment 76
Jacques Toubon, Nicole Fontaine, Jean-Paul Gauzès

Proposal for a directive
Annex a (new)

Text proposed by the Commission

Amendment

Annex B

List of Community laws, the infringement of which constitutes an unlawful act, pursuant to Article 2(a), 2nd indent,

regarding nuclear activities:

- Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel.

- Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation.

- Council Directive 2003/122/Euratom of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources.

- Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency.

Or. fr

Justification

Chapter III of the Euratom Treaty is the legal basis for Community action in the area of environmental protection where nuclear activity is involved. It is most important that the text be brought into line by specifying that the Euratom Treaty remains the basis for nuclear-related issues. Consequently, any infringement of Community legislation passed on the basis of the Treaty must, if it stems from nuclear activity, be considered unlawful.