



2021/0422(COD)

13.7.2022

DRAFT OPINION

of the Committee on Development

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council
the protection of the environment through criminal law and replacing Directive
2008/99/EC
(COM(2021)851 – C9-0466/2021 – 2021/0422(COD))

Rapporteur for opinion: Caroline Roose

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SHORT JUSTIFICATION

According to the UNEP and INTERPOL, environmental crime is rising and has become the fourth largest criminal sector in the world putting at risk the environment, the biodiversity and the climate. It deprives countries and populations from billions of euros of economic revenues annually, especially in developing countries, and threaten human rights.

The current 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 aims primarily at improving environmental protection by means of harmonised criminal legislation. However, many shortcomings and loopholes have been identified, i.e. limited scope, inadequacy of sanctions, low levels of fines; lack of implementation and cooperation between Member States; lack of statistical data, etc.

The rapporteur welcomes the proposal made by the European Commission, notably regarding the broadening of its scope; the strengthening of its provisions related to criminal sanctions and the provision of mechanisms to protect environmental defenders. However, Rapporteur believes that further changes are needed to tackle environmental crime effectively.

First of all, an external dimension to the Directive should be introduced so as to take into account the transboundary character of environmental crime and its impacts on developing countries. The European Union has a particular responsibility in preventing and combating environmental offences in developing countries on several grounds. In some cases, the perpetrator is a European person or a person linked to the EU; the EU is an import or export area, a transition area and a major market, the value chains of some economic sectors is affected by these illegal activities and their leading companies are often headquartered in the EU.

In light of this, and given that human rights violations are often linked to the commission of environmental offences, the rapporteur suggests to amend Article 1 to put a human rights approach at the core of the Directive.

The rapporteur proposes the inclusion of general and autonomous definitions of environmental offences. Despite the growing number of environmental crimes, a harmonised definition of environmental crimes does not yet exist either at the worldwide or at European and national level. Instead, the current system relies upon a list of secondary legislation, leaving out according large parts of EU environmental law. Therefore, criminalising autonomous crimes would enable criminal liability for serious cases of environmental harm and give rights to the nature. It is particularly relevant to tackle transnational organised environmental crime involving or taking place in developing countries.

The rapporteur is also in favour of introducing a crime of ecocide, in order to criminalise the most serious crimes to the environment. The EU should defend the jurisdiction of the International Criminal Court to cover criminal acts that amount to ecocide. In parallel, the EU and its Member States should take the lead for its recognition. The introduction of a crime of ecocide in the remit of this Directive is of particular importance to preventing and prosecuting the most serious transnational environmental crimes taking place in developing countries. The definition used is the one developed by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available

at the moment.

The rapporteur also proposes to enlarge the scope of the Directive, notably to fisheries crime and the exploitation and trade of illegal minerals. Serious breaches of the future Corporate Sustainable due diligence obligations and of the CSRD should be also considered criminal offences.

There is a significant amount of environmental crime linked to legal business and corporations and some corporations choose to be based in places with weak environmental regulations, as this is the case in many developing countries. Therefore, the rapporteur is of the opinion that Member States should have the obligation to establish their jurisdiction over offences committed for the benefit of a legal person established on their territory.

To reinforce cooperation with third countries, a new article is introduced, in line with SDG 17. It is estimated that billions of euros in revenues and taxes are annually stolen from developing countries, causing major economic losses. Hence, there is a need to step up development cooperation through increased financial and technical support to address environmental crime in developing countries.

To combat environmental crime effectively, the rapporteur suggests to introduce new provisions for assessing the damage to the environment as well as aggravating circumstances related i.e. to human rights violations, vulnerable groups and the rule of law systems. New sanctions shall equally be introduced, notably to compensate the damage made to the environment and to increase the maximum limits for penalties and sanctions to make them more dissuasive. Finally yet importantly, data collection and statistics must be improved.

AMENDMENTS

The Committee on Development calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In accordance with Article 208 of the Treaty on the functioning of the European Union (TFEU), the Union is to take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

Or. en

Amendment 2

Proposal for a directive Recital 2

Text proposed by the Commission

(2) The Union continues to be concerned with the rise in environmental criminal offences and their effects, which undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly extending beyond the borders of the Member States in which the offences are committed. Such offences pose a threat to the environment and therefore call for an appropriate and effective response.

Amendment

(2) The Union continues to be concerned with the rise in environmental criminal offences and their effects, which undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly extending beyond the borders of the Member States in which the offences are committed. ***In just a few decades, environmental crime has become the fourth largest criminal sector in the world, growing two to three times faster than the global economy, and represents one to twice the size of the global official development assistance (ODA) and is now as lucrative as drug trafficking.*** Such offences pose a threat to the environment, ***to the climate and fundamental rights*** and therefore call for an appropriate and effective response. ***Environmental crime can also involve or take place in developing countries where shortcomings as regards to environmental rule of law have been identified (lack of adequate legal framework and governance structures, lack of information, implementation and enforcement).***

Or. en

Amendment 3

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The Union has a particular responsibility in preventing and combating the commission of

environmental offences in developing countries not only because in some cases the perpetrator is European or linked to the Union but also because the Union is notably an import and export area, a transition area and a major market, notably for illegal wildlife trade, illegal, unreported, and unregulated (IUU) fishing, illegal logging activities and illegal mining and trading in precious metals and minerals coming from those countries. Moreover in doing that the Union is implementing the legal obligation enshrined in Article 208 TFEU, contributing to the objective of fostering the sustainable economic, social and environmental development of developing countries as set out in Article 21 TEU, as well as contributing to the realisation of the goals of the UN 2030 Agenda for Sustainable Development, and in particular, to Goal 16.

Or. en

Amendment 4

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) *Despite the growing number of environmental crimes, a harmonised and accepted definition of environmental crimes does not yet exist either at the global or at Union and national level. This Directive aims to provide a general framework by defining autonomous environmental crime, in addition to the Union-wide common set of definitions of specific environmental offences.*

Or. en

Justification

Despite the growing number of environmental crimes, an harmonised definition of environmental crimes does not yet exist either at the worldwide or at EU and national level. The Commission's proposal fails to propose a general definition of environmental crime, which is one of the greatest obstacle to the fight against such offences. The objective of this amendment is to provide a definition of environmental autonomous offences to overcome the weaknesses related to the Commission's sectoral approach and prevent any conduct that could create an immediate risk of substantial damage.

Amendment 5

Proposal for a directive Recital 8

Text proposed by the Commission

(8) A conduct should be considered unlawful also when it is carried out under an authorisation by a competent authority in a Member State if such authorisation was obtained fraudulently, or by corruption, extortion or coercion. Moreover, operators should take the necessary steps to comply with the legislative, regulatory and administrative provisions concerning the protection of environment applicable when they carry out the respective activity, including by complying with their obligations, as laid down in applicable EU and national laws, in procedures governing amendments or updates to existing authorisations.

Amendment

(8) A conduct should be considered unlawful also when it is carried out under an authorisation by a competent authority in a Member State ***or in a developing country*** if such authorisation was obtained fraudulently, or by corruption, extortion or coercion. Moreover, operators should take the necessary steps to comply with the legislative, regulatory and administrative provisions concerning the protection of environment applicable when they carry out the respective activity, including by complying with their obligations, as laid down in applicable EU and national laws, in procedures governing amendments or updates to existing authorisations.

Or. en

Amendment 6

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Environmental crimes can be perpetrated by a range of state and non-state actors, from individuals, small

groups, companies, corrupt government individuals, to organised criminal networks, and often a combination thereof. Transnational companies could exploit and damage the environment in order to generate more profit or reduce their costs, in particular in developing countries where the legal and institutional frameworks are usually weaker.

Or. en

Amendment 7

Proposal for a directive Recital 12

Text proposed by the Commission

(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact the environment. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. ***In this respect***, it is of particular concern that some environmental crimes are committed with the tolerance or active support of the competent administrations or officials performing his/her public duty. In certain cases this can even take the form of corruption. Examples of such behaviours are turning a blind eye or remaining silent on the infringement of laws protecting the environment following inspections, deliberately omitting inspections or controls for example with regard to whether the conditions of a permit are being respected by the permit-holder,

Amendment

(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact the environment. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. ***Given the importance of corporate environmental crime, improving transparency in the corporate supply and value chains is necessary. Especially, transparency on beneficial ownership of companies is key to prosecuting environmental crime, for example in IUU fishing or illegal wildlife trafficking. Therefore, Member States should in parallel ensure a full implementation of Directive (EU) 2018/843 of the European Parliament and of the Council^{1a}.*** It is of particular concern that some environmental crimes are

resolutions or votes in favour of granting illegal licences or issuing falsified or untrue favourable reports.

committed with the tolerance or active support of the competent administrations or officials performing his/her public duty. In certain cases this can even take the form of corruption. Examples of such behaviours are turning a blind eye or remaining silent on the infringement of laws protecting the environment following inspections, deliberately omitting inspections or controls for example with regard to whether the conditions of a permit are being respected by the permit-holder, resolutions or votes in favour of granting illegal licences or issuing falsified or untrue favourable reports.

1^a Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

Or. en

Amendment 8

Proposal for a directive Recital 14

Text proposed by the Commission

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the obligation to reinstate the environment,

Amendment

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the obligation to reinstate the environment,

exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations. This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

compensation for the damage caused, exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations. ***Sanctions that seek guarantees of non-repetition are very important. Effective remedies, including redress, mitigation and adaptation measures and injunctions among others should also be provided.*** This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

Or. en

Amendment 9

Proposal for a directive Recital 15

Text proposed by the Commission

(15) ***Where national law provides for it,*** legal persons should also be held criminally liable for environmental criminal offences according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanctions types and levels as laid down in this Directive in order to achieve its objectives. Financial situation of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed.

Amendment

(15) Legal persons should also be held criminally liable for environmental criminal offences according to this Directive. ***Like natural persons, legal persons who are perpetrators, instigators or accomplices in offences must be held responsible and subject to criminal proceedings.*** Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanctions types and levels as laid down in this Directive in order to achieve its objectives. Financial situation of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed.

Or. en

Amendment 10

Proposal for a directive Recital 16

Text proposed by the Commission

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case.

Amendment

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case. ***Finally, the severity of human rights impacts, the vulnerability of the human victims as well as the fact of abusing the existing legal and institutional weaknesses of the developing countries or the gross violation of due diligence obligations should also be considered aggravating circumstances.***

Or. en

Amendment 11

Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) While the recognition of the crime

of ecocide is currently being discussed in several national parliaments around the world, the Union should seize the opportunity to remain a world leader in environmental protection legislation and to provide for a harmonised definition and maximum limits for sanctions. Member States should therefore introduce a crime of ecocide, which should be considered a criminal offence for the purposes of this Directive and be defined as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and widespread or long-term damage to the environment being caused. That specific crime would make it possible to identify the most serious damage to the environment and thus to provide for a graduation of sanctions according to the gravity of the harm to the environment

Or. en

Justification

On several occasions, the European Parliament has called for the establishment of ecocide as a criminal offence to safeguard human rights and democracy, biodiversity, the climate and environmental defenders. The definition used is the one developed by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment.

Amendment 12

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Member States should lay down rules concerning limitation periods necessary in order to enable them to counter environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and

Amendment

(19) Member States should lay down rules concerning limitation periods necessary in order to enable them to counter environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and

enforcement.

enforcement. *For the investigation, prosecution, trial and adjudication of the ecocide offences there should not be limitation period.*

Or. en

Amendment 13

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Given, in particular, the mobility of perpetrators of illegal conduct covered by this Directive, together with the cross-border nature of offences and the possibility of cross-border investigations, Member States should establish jurisdiction in order to counter such conduct effectively.

Amendment

(23) Given, in particular, the mobility of perpetrators of illegal conduct covered by this Directive, together with the cross-border nature of offences and the possibility of cross-border investigations, Member States should establish jurisdiction in order to counter such conduct effectively. *Member States should thus extend their jurisdiction where an offence creates a risk for the environment on their territories, where the offence is committed for the benefit of a legal person established on their territories, or where it is committed against their residents.*

Or. en

Amendment 14

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Environmental defenders who directly protect ecosystems are also often on the front line of the consequences of environmental crime worldwide, including in the Union. They could be directly threatened, intimidated, persecuted, harassed or even murdered by

perpetrators, and as such should also benefit from balanced and effective protection. The establishment of an independent special rapporteur on environmental rights defenders under the Aarhus Convention, and consequently the establishment of protection measures, is also a way to better fight environmental crime.

Or. en

Amendment 15

Proposal for a directive Recital 24 b (new)

Text proposed by the Commission

Amendment

(24b) In its resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society, the European Parliament noted that environmental defenders could also be subject to abusive lawsuits and threats, and should be protected from such abusive practices, also known as "Strategic lawsuits against public participation"^{1a}.

Or. en

Amendment 16

Proposal for a directive Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) Due to its global impact and cross-border nature, and in line with Sustainable Development Goal 17, cooperation with third countries and, in

particular with developing countries should be intensified, in particular by adopting and supporting effective measures and mechanisms to increase coordination and cross-border cooperation in order to combat environmental transnational crime. It is estimated that billions of euros in revenues and taxes are annually stolen from developing countries, causing major economic losses. Member States should seek to step up development cooperation through increased financial and technical support to address environmental crime in developing countries.

Or. en

Amendment 17

Proposal for a directive Recital 31 b (new)

Text proposed by the Commission

Amendment

(31b) The Union and its Member States should also make the fight against environmental crime a strategic political priority in international judicial cooperation and within the institutions and the Conference of the Parties to the United Nations Framework Convention on Climate Change, in particular by promoting compliance with multilateral environmental agreements through the adoption of criminal sanctions and the exchange of best practices and data on environmental crime. This international approach to environmental crime should also include extending the jurisdiction of the International Criminal Court to the crime of ecocide, and the Union and its Member States have a key role and responsibility in that regard.

Or. en

Amendment 18

Proposal for a directive Recital 32

Text proposed by the Commission

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission relevant statistical data on environmental offences. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

Amendment

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. ***There are major gaps in knowledge both at international and Union level. Data remains limited, there is a lack of statistics on environmental-related offences, their impacts on local communities, offenders and sanctions given. Data concerning the number of transnational environmental crime cases disaggregated by countries where the environmental offense was committed, the value of proceeds seized, frozen or confiscated, information about whether the environmental offence constitutes a predicate offense for a money laundering crime, the number and characteristics of victims or groups of victims, including local communities affected, are important data that will allow the design of better policies and strategies to prevent and combat those crimes in developing countries.*** Member States should collect and report to the Commission relevant statistical data on environmental ***offences, in particular specifying the sanctions imposed on the authors of*** offences. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

Amendment 19**Proposal for a directive****Article 1 – paragraph 1***Text proposed by the Commission*

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in order to protect the environment more effectively.

Amendment

This Directive establishes minimum rules concerning the definition of *environmental* criminal offences and sanctions **as well as means and resources** in order to protect the environment, **prevent and combat environmental crime** more effectively, **as well as prevent human rights violations and abuses resulting from environmental criminal offences**.

Or. en

Justification

This directive can have an impact on preventing human rights violations not only in Europe but also beyond. When the environmental offence takes place in a developing country, it can cause the displacement of populations, affects their right to food and water, workers' rights, traditions and culture. It disproportionately affects vulnerable groups such as children or indigenous peoples. By including a reference in this provision we reinforce the human rights approach of the directive.

Amendment 20**Proposal for a directive****Article 2 – paragraph 1 – point 1 a (new)***Text proposed by the Commission**Amendment*

(1a) “environment” means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space, including the integrity of all the biotic and abiotic elements of an ecosystem, their functions, services and mutual interactions and the planetary boundaries;

Justification

The definition introduced is based on the work conducted by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment. <https://www.stopecocide.earth/legal-definition>

Amendment 21**Proposal for a directive****Article 2 – paragraph 1 – point 1 b (new)**

Text proposed by the Commission

Amendment

(1b) “severe damage” means damage, which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life, or natural, cultural or economic resources;

Justification

The definition introduced is based on the work conducted by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment. <https://www.stopecocide.earth/legal-definition>

Amendment 22**Proposal for a directive****Article 2 – paragraph 1 – point 1 c (new)**

Text proposed by the Commission

Amendment

(1c) “widespread damage” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;

Justification

The definition introduced is based on the work conducted by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment. <https://www.stopecocide.earth/legal-definition>

Amendment 23**Proposal for a directive****Article 2 – paragraph 1 – point 1 d (new)**

Text proposed by the Commission

Amendment

(1d) “long-term damage“ means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;

Or. en

Justification

The definition introduced is based on the work conducted by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment. <https://www.stopecocide.earth/legal-definition>

Amendment 24**Proposal for a directive****Article 2 – paragraph 1 – point 1 e (new)**

Text proposed by the Commission

Amendment

(1e) “wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;

Or. en

Justification

The definition introduced is based on the work conducted by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment. <https://www.stopecocide.earth/legal-definition>

Amendment 25

Proposal for a directive

Article 2 – paragraph 1 – point 1 f (new)

Text proposed by the Commission

Amendment

(1f) ‘planetary boundaries’, mean the nine planetary life-support systems identified as part of the planetary boundaries framework: climate change, biosphere integrity (covering functional and genetic diversity), land system changes, freshwater use, biogeochemical flows (nitrogen and phosphorus), ocean acidification, atmospheric aerosol pollution, stratospheric ozone depletion and novel entities;

Or. en

Amendment 26

Proposal for a directive

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

Amendment

(3) ‘legal person’ means any legal entity having such status under the applicable national law, ***except*** for States or public bodies exercising State authority and for public international organisations;

(3) ‘legal person’ means any legal entity having such status under the applicable national law, ***including*** for States or public bodies exercising State authority and for public international organisations;

Or. en

Justification

This directive should be applied unequivocally to public sector entities, including those bodies governed by public law, whose employees may participate in or be complicit of environmental offences. Public sector officials may commit environmental offences either directly by breaching environmental duties or omitting to act in conformity with them or by facilitating offences committed by entities such as multinational corporations, in particular, in transnational environmental crime cases, many of which involve and affect developing countries.

Amendment 27

Proposal for a directive

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘public concerned’ means the persons affected or likely to be affected by the offences referred to in Articles 3 or 4. For the purposes of this definition, persons having a sufficient interest or maintaining the impairment of a right as well as non-governmental organisations promoting the protection of the environment and meeting any proportionate requirements under national law shall be deemed to have an interest;

Amendment

(4) ‘public concerned’ means the persons **or groups of persons including local communities** affected or likely to be affected by the offences referred to in Articles 3 or 4. For the purposes of this definition, persons having a sufficient interest or maintaining the impairment of a right as well as non-governmental organisations promoting the protection of the environment and **of the human rights and** meeting any proportionate requirements under national law shall be deemed to have an interest;

Or. en

Amendment 28

Proposal for a directive

Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) ‘victim’ **has the meaning attributed to it in Article 2(1) point (a) of Directive 2012/29/EU of the European Parliament and of the Council**⁵² .

Amendment

(5) ‘victim’ **means:**

(i) natural persons, including future

generations, who, individually or collectively, have suffered or are likely to suffer harm, including physical, mental or emotional harm, economic loss, loss of culture, traditions, traditional knowledge associated with genetic resources, or substantial impairment or abuse of their human rights which was directly caused by the environmental criminal offences;

(ii) relatives of a person whose death was directly caused by an environmental criminal offence and who have suffered harm as a result of that person's death;

(iii) legal persons who have suffered or are likely to suffer loss, including economic loss;

(iv) the environment which has suffered or is likely to suffer the harm directly or indirectly caused by the environmental criminal offences.

³² *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, (OJ L 315, 14.11.2012, p. 57–73).*

Or. en

Justification

The concept of victim in the aforementioned Directive is very narrow. It must be expanded to include collective victims (e.g. local communities, groups). The concept should also include the future generations. Along with natural persons, legal entities should also be considered as they could suffer economic loss. Finally, ecosystems themselves are also victims. The harm can encompass aspects other than health and life and affect other human rights. The broad regulation of the concept of victim that we propose will reinforce the human rights dimension of the directive.

Amendment 29

Proposal for a directive Article 3 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Member States shall ensure that, when committed intentionally or with at least serious negligence, directly or indirectly exposing the environment to an immediate risk of substantial damage constitutes a criminal offence.

Or. en

Justification

Despite the growing number of environmental crimes, a harmonised definition of environmental crimes does not yet exist either at the worldwide or at EU and national level. The Commission's proposal fails to propose a general definition of environmental crime, which is one of the greatest obstacle to the fight against such offences. The objective of this amendment is to provide a definition of environmental autonomous offences to overcome the weaknesses related to the Commission's sectoral approach and prevent any conduct that could create an immediate risk of substantial damage.

Amendment 30

Proposal for a directive Article 3 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1a. Member States shall ensure that conduct which knowingly causes substantial damage to the environment constitutes a criminal offence.

Or. en

Justification

Despite the growing number of environmental crimes, an harmonised definition of environmental crimes does not yet exist either at the worldwide or at EU and national level. The Commission's proposal fails to propose a general definition of environmental crime, which is one of the greatest obstacle to the fight against such offences. The objective of this amendment is to provide a definition of environmental autonomous offences to overcome the

weaknesses related to the Commission's sectoral approach and prevent any conduct that could cause a substantial damage to the environment.

Amendment 31

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the discharge, emission or introduction of a quantity of materials or substances 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, the quality of soil or the quality of water, or to animals or plants;

Amendment

(a) the discharge, emission or introduction of a quantity of materials or substances or ionising radiation into air, soil or water which causes or is likely to cause death or serious injury to any ***natural person, group of persons, community or economic loss (including for legal persons)*** or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

Or. en

Amendment 32

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) the placing on the market of a product which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to animals or plants as a result of the product's use on a larger scale;

Amendment

(b) the placing on the market of a product which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to ***biodiversity, ecosystems and functions***, animals or plants as a result of the product's use on a larger scale;

Or. en

Amendment 33

Proposal for a directive

Article 3 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) the manufacture, placing on the market or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

Amendment

(c) the manufacture, placing on the market, ***export from the Union market***, or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

Or. en

Amendment 34

Proposal for a directive

Article 3 – paragraph 1 – point c – point vi a (new)

Text proposed by the Commission

Amendment

(vi a) that activity is not in compliance with Directive 2009/128/EC of the European Parliament and of the Council^{1a};

^{1a} Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

Or. en

Justification

Each year, thousands of tons of banned pesticides are exported outside the EU and over half of them to developing countries, where the regulations concerning their use are less strict. Such double standard policy is going against the principle of Policy Coherence for Development. Given the impacts of their use on the environmental and health of the populations of developing countries, France has banned their export since 2022. In its 2020 Chemicals strategy the European Commission took a similar approach. The scope of the directive should be expanded to cover such exports.

Amendment 35

Proposal for a directive Article 3 – paragraph 1 – point h

Text proposed by the Commission

(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council⁴² on ship-source pollution and on the introduction of penalties, including criminal penalties, into any of the areas referred to in Article 3(1) of that Directive, provided that the ship-source discharges do not satisfy the exceptions set in Article 5 of that Directive; this provision shall not apply to individual cases, where the ship-source discharge does not cause deterioration in the quality of water, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water;

⁴² Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11–21).

Amendment

(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council⁴² on ship-source pollution and on the introduction of penalties, including criminal penalties, into, ***or pollution, as defined in Article 3, point 8, of Directive 2008/56/EC of the European Parliament and of the Council^{42a} in***, any of the areas referred to in Article 3(1) of that Directive, provided that the ship-source discharges do not satisfy the exceptions set in Article 5 of that Directive; this provision shall not apply to individual cases, where the ship-source discharge does not cause deterioration in the quality of water, ***and the marine environment***, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water;

⁴² Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11–21).

^{42a} ***Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L , 25.6.2008, p. 19).***

Or. en

Amendment 36

Proposal for a directive

Article 3 – paragraph 1 – point m

Text proposed by the Commission

(m) trading in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A **and B** to Council Regulation (EC) No 338/97⁵¹, except for cases where the conduct concerns a negligible quantity of such specimens;

⁵¹ Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1).

Amendment

(m) trading in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A, **B and C** to Council Regulation (EC) No 338/97⁵¹, except for cases where the conduct concerns a negligible quantity of such specimens;

⁵¹ Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1).

Or. en

Justification

Annex C to Council Regulation (EC) No 338/97 refers to the Appendix III of the CITES, the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It covers a range of species with a high conservation value with the aim to prevent their unsustainable or illegal exploitation. It is essential to provide the same level of protection of those species, especially with regard to imports that are not carried out in accordance with the Wildlife Trade Regulations.

Amendment 37

Proposal for a directive

Article 3 – paragraph 1 – point r a (new)

Text proposed by the Commission

Amendment

(r a) serious infringements as defined in Article 42 of Regulation (EC) No 1005/2008 and serious infringements referred to in Article 90(1) of Regulation (EC) No 1224/2009;

Or. en

Justification

According to UNEP and Interpol, fisheries crime represented between 11–23.5 billion USD of annual loss of resources in 2016. The most serious infringements are listed in the IUU Regulation and the EU fisheries control regulation, which does not define minimum standards for the effectiveness, proportionality and dissuasiveness of administrative or criminal sanctions. The ECD is the best tool to set minimum harmonised standards for sanctions. Adding fisheries crime in its scope is in line with the EU zero tolerance policy toward IUU fishing, the EU Biodiversity Strategy and SDG 14.

Amendment 38

Proposal for a directive

Article 3 – paragraph 1 – point r b (new)

Text proposed by the Commission

Amendment

(r b) extraction, exploitation, exploration, use, transformation, transportation, trade or storage of mineral resources, in contravention of the national or international law;

Or. en

Amendment 39

Proposal for a directive

Article 3 – paragraph 1 – point r c (new)

Text proposed by the Commission

Amendment

(r c) serious breaches of the due diligence obligations set out in Directive (EU) xxx/xxx of the European Parliament and of the Council [Corporate Sustainability Due Diligence Directive]^{1a} and non-compliance with the decisions of the competent authorities in the matter;

^{1a} Directive (EU) xxx/xxx of ... of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU)

Amendment 40

Proposal for a directive

Article 3 – paragraph 1 – point r d (new)

Text proposed by the Commission

Amendment

(r d) serious breaches of Directive (EU) xxx/xxx of the European Parliament and of the Council [Corporate Sustainability Reporting Directive]^{1a}.

^{1a} Directive (EU) xxx/xxx of ... of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting (OJ L ..., ..., p. ...).

Amendment 41

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that the conduct referred to in paragraph 1, points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r) also constitutes a criminal offence, when committed with at least serious negligence.

2. Member States shall ensure that the conduct referred to in paragraph 1, points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r), **ra, rb, rc, rd** also constitutes a criminal offence, when committed with at least serious negligence.

Amendment 42

Proposal for a directive

Article 3 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is **substantial** for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):

Amendment

3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is **substantial or severe** for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):

Or. en

Amendment 43

Proposal for a directive

Article 3 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) latent character of the damage;

Or. en

Amendment 44

Proposal for a directive

Article 3 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) severity of the damage;

(c) severity of the damage **to the environment**;

Or. en

Amendment 45

Proposal for a directive

Article 3 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the number of persons and local communities who have suffered injuries or are or were exposed to danger or who have suffered human rights abuses as well as the severity of those human rights violations associated to the environmental damage caused by the criminal offence;

Or. en

Amendment 46

Proposal for a directive

Article 3 – paragraph 3 – point e b (new)

Text proposed by the Commission

Amendment

(eb) the financial impacts of damage caused;

Or. en

Amendment 47

Proposal for a directive

Article 3 – paragraph 3 – point e c (new)

Text proposed by the Commission

Amendment

(ec) the financial benefits gained by the perpetrator of the environmental offence;

Or. en

Amendment 48

Proposal for a directive Article 3 – paragraph 3 – point e d (new)

Text proposed by the Commission

Amendment

(ed) violation or negligence of the due diligence obligations;

Or. en

Amendment 49

Proposal for a directive Article 3 – paragraph 5 – point d a (new)

Text proposed by the Commission

Amendment

(da) the severity of the impact on human rights of persons, groups or local communities;

Or. en

Amendment 50

Proposal for a directive Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Ecocide

Member States shall introduce in their national law a crime of ecocide, which shall be considered a serious criminal offence for the purposes of this Directive and shall be defined as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and widespread or long-term damage to the environment being caused.

Justification

On several occasions, the European Parliament has called for the establishment of ecocide as a criminal offence to safeguard human rights and democracy, biodiversity, the climate and environmental defenders. The definition used is the one developed by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment.

Amendment 51

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Article 3(1) are punishable as criminal offences.

Amendment

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Article 3(-1), (-1a) and (1) or **Article 3a** are punishable as criminal offences.

Amendment 52

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (**r**) when committed intentionally is punishable as a criminal offence.

Amendment

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in **Article 3(-1) and (-1a) or** Article 3(1) points (a), (b), (c), (d), (e), (f), (**g**), (h), (i), (j), (k), (**l**), (m), (n), (p) (ii), (q), **ra, rb, rc, rd**, when committed intentionally is punishable as a criminal offence.

Amendment 53

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

Amendment

1. Member States shall take the necessary measures to ensure that the offences referred to in Articles 3, **3a** and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

Or. en

Amendment 54

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person.

Amendment

2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 **and 3a** are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person **or group of persons or other serious human rights violations**.

Or. en

Amendment 55

Proposal for a directive Article 5 – paragraph 5 – introductory part

Text proposed by the Commission

5. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be

Amendment

5. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3, **3a** and 4 may be

subject to additional sanctions or measures which shall include:

subject to additional sanctions or measures which shall include:

Or. en

Amendment 56

Proposal for a directive Article 5 – paragraph 5 – point c

Text proposed by the Commission

(c) temporary or permanent exclusions from access to public funding, including tender procedures, grants and concessions;

Amendment

(c) temporary or permanent exclusions from access to public funding, including tender procedures, grants and concessions *and licenses*;

Or. en

Amendment 57

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of an offence referred to in Articles 3 and 4 for the benefit of the legal person by a person under its authority.

Amendment

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of an offence referred to in Articles 3, **3a** and 4 for the benefit of the legal person by a person under its authority.

Or. en

Amendment 58

Proposal for a directive Article 6 – paragraph 3

Text proposed by the Commission

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.

Amendment

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3, **3a** and 4.

Or. en

Amendment 59

**Proposal for a directive
Article 7 – paragraph 2 – point b**

Text proposed by the Commission

(b) the obligation to reinstate the environment within a given period;

Amendment

(b) the obligation to reinstate the environment within a given period **and to compensate for the damage caused;**

Or. en

Amendment 60

**Proposal for a directive
Article 7 – paragraph 2 – point d**

Text proposed by the Commission

(d) temporary exclusion from access to public funding, including tender procedures, grants **and** concessions;

Amendment

(d) temporary **or permanent** exclusion from access to public funding, including tender procedures, grants, concessions **and licences;**

Or. en

Amendment 61

**Proposal for a directive
Article 7 – paragraph 2 – point j**

Text proposed by the Commission

(j) obligation of companies to install due diligence schemes for enhancing compliance with environmental standards;

Amendment

(j) obligation of companies to install due diligence schemes for enhancing compliance with environmental ***and human rights*** standards ***and obligations***;

Or. en

Amendment 62

Proposal for a directive Article 7 – paragraph 2 – point k a (new)

Text proposed by the Commission

Amendment

***(ka) the removal from the
Transparency Register.***

Or. en

Amendment 63

Proposal for a directive Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) ***points (a) to (j), (n), (q), (r)*** are punishable by fines, the maximum limit of which shall be not less than ***5%*** of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.

4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) are punishable by fines, the maximum limit of which shall be not less than ***15%*** of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.

Or. en

Justification

In order to be dissuasive and prevent offenders from committing of environmental offences, the proposed minimum standards for maximum limits for penalties and sanctions should be

increased.

Amendment 64

Proposal for a directive Article 7 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) points (k), (l), (m), (o), (p) are punishable by fines, the maximum limit of which shall be not less than 3% of the total worldwide turnover of the legal person [/*undertaking*] in the business year preceding the fining decision.

deleted

Or. en

Amendment 65

Proposal for a directive Article 7 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall take the necessary measures to ensure that offences referred to in Article 3a are punishable by fines, paid by the legal person committing the environmental offences, the maximum limit of which shall be between 15 and 30 % of the total worldwide turnover of the legal person in the business year preceding the decision on the imposition of the fine.

Or. en

Amendment 66

Proposal for a directive Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) the offence caused the death of, or serious injury to, a person;

Amendment

(a) the offence caused the death of, or serious injury to, a person ***or groups of persons***;

Or. en

Amendment 67

Proposal for a directive Article 8 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the offence caused severe impacts on the human rights or substantial economic loss or loss of culture and tradition of the population or local communities of a developing country where the environmental damage has occurred;

Or. en

Amendment 68

Proposal for a directive Article 8 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) the offence affected or is likely to affect vulnerable groups such as children, youth, people with disabilities or indigenous communities;

Or. en

Amendment 69

Proposal for a directive

Article 8 – paragraph 1 – point a c (new)

Text proposed by the Commission

Amendment

(ac) the offence was committed by abusing existing weaknesses in the rule of law and governance systems of developing countries and, in particular, by mediating corruption, intimidation or violence;

Or. en

Amendment 70

Proposal for a directive

Article 8 – paragraph 1 – point a d (new)

Text proposed by the Commission

Amendment

(ad) the offence was committed in gross violation of the existing due diligence systems or with non-compliance with the related decisions of the competent authorities;

Or. en

Amendment 71

Proposal for a directive

Article 8 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the offence involved the use of false or forged documents;

(d) the offence involved the use of false or forged documents ***or serious violation of Directive (EU) xxx/xxx [Corporate Sustainability Reporting Directive]***

Or. en

Amendment 72

Proposal for a directive Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

Amendment

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, ***or after the detection of those offences in cases where those offences were concealed***, in order for those criminal offences to be tackled effectively. ***For the investigation, prosecution, trial and adjudication with respect to the criminal offences referred in Article 3a there shall not be limitation period.***

Or. en

Justification

When there are insufficient means of investigation and enquiry (as is often the case in developing countries where it can take several years before the damage is discovered), there shall be no limitation period.

Amendment 73

Proposal for a directive Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:

Amendment

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3, ***3a*** and 4 where:

Or. en

Amendment 74

Proposal for a directive Article 12 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the offence was committed for the benefit of a legal person established on its territory

Or. en

Justification

Such obligation for Member States to establish jurisdiction over offences committed for the benefit of a legal person established on its territory would give, among other, the possibility to prosecute EU beneficiaries from criminal offences that are conducted in developing countries. Legal persons established in the EU should be bound by laws in force in the EU."

Amendment 75

Proposal for a directive Article 12 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. A Member State shall **inform the Commission where it decides** to extend its jurisdiction to offences referred to in Articles 3 and 4 which have been committed outside its territory, where:

2. A Member State shall **take the necessary measures** to extend its jurisdiction to offences referred to in Articles 3, **3a** and 4 which have been committed outside its territory, where:

Or. en

Amendment 76

Proposal for a directive Article 12 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the offence has created a severe risk

(c) the offence has created a severe risk for the environment **or for the biodiversity**

for the environment on its territory.

on its territory.

Or. en

Amendment 77

Proposal for a directive Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall also ensure an effective implementation and enforcement of domestic and European environmental due diligence obligations in supply chains of their natural and legal persons operating in developing countries as set out in the Directive (EU) xxx/xxx [Corporate Sustainability Due Diligence Directive.

Or. en

Amendment 78

Proposal for a directive Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

The reinforcement of the administrative inspections systems and the use of new technologies such as the use of Earth observation shall be enhanced to prevent and detect environmental crimes, in particular those committed in developing countries.

Or. en

Amendment 79

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations to provide at regular intervals specialised training with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.

Amendment

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations to provide at regular intervals specialised training with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities. ***Specialised trainings on the investigation and prosecution of transnational environmental crimes shall receive a particular attention.***

Or. en

Amendment 80

Proposal for a directive Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Cooperation among Member States, with the Union bodies, offices and agencies and with developing countries

1. Member States shall ensure effective coordination and cross-border cooperation with other Member States and with the Union, including its specialized bodies, offices and Agencies such as the European Union Agency for Criminal Justice Cooperation (Eurojust), the European Union Agency for Law Enforcement Cooperation (Europol), the European Public Prosecutor's Office,

European Union Agency for Law Enforcement Training (CEPOL) and the European Union Agency for Fundamental Rights in order to prevent regulatory arbitrage and effectively combat environmental crimes.

2. Member States shall intensify international judicial cooperation and, in particular, cooperation with developing countries in order to strengthen their rule of law and governance systems with a view to implement effective mechanisms to prevent and combat environmental crime.

3. The Commission shall step up ways of improving international and development cooperation and supporting developing countries by means of effective measures to improve capacity building, in particular the establishment of technical assistance programmes, to enable them to improve their administrative, judicial and legal systems with the aim of preventing and combating environmental crime more effectively.

Or. en

Amendment 81

Proposal for a directive Article 20 – paragraph 1 – point a

Text proposed by the Commission

(a) the objectives and priorities of national policy in this area of offence;

Amendment

(a) the objectives and priorities of national policy in this area of offence ***including the prevention and fighting of transnational environmental organised crime, as well as corruption and money-laundering linked to such crimes when affecting developing countries;***

Or. en

Amendment 82

Proposal for a directive

Article 20 – paragraph 1 – point b

Text proposed by the Commission

(b) the roles and responsibilities of all the competent authorities involved in countering this type of offence;

Amendment

(b) the roles and responsibilities of all the competent authorities involved in countering this type of offence; ***as well as other actors such as civil society and private sector;***

Or. en

Amendment 83

Proposal for a directive

Article 20 – paragraph 1 – point c

Text proposed by the Commission

(c) the modes of coordination and cooperation between the competent authorities;

Amendment

(c) the modes of coordination and cooperation between the competent authorities ***and with other actors such as civil society;***

Or. en

Amendment 84

Proposal for a directive

Article 20 – paragraph 1 – point e

Text proposed by the Commission

(e) the resources needed and how specialisation of enforcement professionals will be supported;

Amendment

(e) the resources needed ***and allocated*** and how specialisation of enforcement professionals will be supported, ***and how multidisciplinary approaches will be included in the training programmes;***

Or. en

Amendment 85

Proposal for a directive

Article 20 – paragraph 1 – point f

Text proposed by the Commission

(f) the procedures and mechanisms for regular monitoring and evaluation of the results achieved;

Amendment

(f) the procedures and mechanisms for regular monitoring and evaluation of the results achieved ***including baseline and the indicators used;***

Or. en

Amendment 86

Proposal for a directive

Article 20 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) assistance to, and protection of, victims in developing countries, in particular, those in vulnerable situation, including environmental defenders;

Or. en

Amendment 87

Proposal for a directive

Article 21 – paragraph 2 – point f

Text proposed by the Commission

(f) the number of legal persons sanctioned for environmental crime or equivalent offences;

Amendment

(f) the number of legal persons sanctioned for environmental crime or equivalent offences ***and whether the perpetrator was or acted within an organised crime group;***

Or. en

Amendment 88

Proposal for a directive Article 21 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the number of transnational environmental crime cases with disaggregation of countries where the environmental offence was committed;

Or. en

Amendment 89

Proposal for a directive Article 21 – paragraph 2 – point h b (new)

Text proposed by the Commission

Amendment

(hb) figures on proceeds from environmental crimes that were provisionally seized or frozen and finally confiscated;

Or. en

Amendment 90

Proposal for a directive Article 21 – paragraph 2 – point h c (new)

Text proposed by the Commission

Amendment

(hc) whether the environmental crime constitutes a predicate offence for money laundering;

Or. en

Amendment 91

Proposal for a directive

Article 21 – paragraph 2 – point h d (new)

Text proposed by the Commission

Amendment

(hd) the number of victims, including groups of victims or local communities, disaggregated inter alia by sex, age, ethnicity, country of origin ;

Or. en

Amendment 92

Proposal for a directive

Article 21 – paragraph 2 – point h e (new)

Text proposed by the Commission

Amendment

(he) type of impact on the environment and on people and local communities.

Or. en