



2021/0422(COD)

25.10.2022

OPINION

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council
on the Protection of the environment through criminal law and replacing
Directive 2008/99/EC
(COM(2021)0851 – C9-0466/2021 – 2021/0422(COD))

Rapporteur for opinion: Sirpa Pietikäinen

PA_Legam

SHORT JUSTIFICATION

Directive 2008/99/EC falls short on implementation, is not in line with the development of EU environmental law and current challenges, and it leaves out large parts of EU environmental law and environmental destruction.

This leads to a situation where the criminal justice response does not represent the situation on the ground. Despite the Directive, the number of cross border investigations and convictions has not grown substantially. Environmental crime is the fourth largest criminal activity and it is growing.

Environmental crime is a threat to the European economy and businesses. It is estimated that the annual revenues only from the illicit waste market in the EU are between EUR 4 billion and EUR 15 billion. It creates an unlevel playing field, as companies can, by avoiding liability, create financial benefit. This needs to be tackled. It is also strongly linked to international organised crime.

Environmental crime is a threat to our environment and human health. It can affect the quality of air and water, contaminate land, harm wild species and damage or destroy natural habitats. All this can have an impact on human and planetary health.

Every person has the right to live in a healthy environment. According to the treaties, the European Union is committed to ensuring a high level of protection and improvement of the quality of the environment. According to the Charter of Fundamental Rights of the European Union, the Union is committed to a high level of human health and environmental protection. According to the Aarhus Convention, the Union is committed to the right of every person to live in an environment adequate to his or her health and well-being. This is not always the case in reality. Environmental criminal law is also part of the implementation of the human right to health and a good environment.

Currently, the threshold for investigations is too high, which leads to lower detection, prosecution and sanctioning. The rapporteur believes that this needs to be strengthened along with widening the scope of the Directive, especially conduct that is committed in the awareness that it causes or is likely to cause human rights violations or substantial damage to the environment. In its gravest form, this could be considered as an ecocide.

We have already exceeded five out of nine planetary boundaries, safe limits for humanity. This threatens the livelihood of the planet and our health. Also, the gravity of biodiversity degradation and climate change cause an existential threat to the livelihood. Neglecting and not acting on these threats could constitute an ecocide.

The focus should be on prevention and precaution. The operators have a duty to be aware and conduct proper due diligence. The duty to be precautionary and to be aware needs to be part of the general responsibilities of operators and actors. And that is why the Directive must also tackle cases of “willful blindness”, meaning the deliberate avoidance of knowledge of facts. It should not be possible for persons to shield themselves from culpability by turning a blind eye to the situation. As in other fields of criminal legislation, the main principle of criminality and sanctions stems from the harm done.

If an offence causes or is likely to cause death or serious injury to any person or substantial damage or is serious, irreversible, or long-lasting, these should be considered aggravating circumstances, not mere criteria for a criminal offence. The extent of environmental harm should be considered in imposing a penalty rather than an element of the crime that must be proven to establish guilt. Furthermore, many offences are committed by simple negligence, and this should be sufficient for criminal liability. If not, we are raising the threshold for investigation.

The directive should also cover conduct that is unlawful even if it has the authorisation by a competent authority, if this authorisation is illegal, e.g., an environmental permit has been granted but is contrary to environmental laws.

Harsher sanctions for lawbreakers and stronger enforcement are urgently needed. The sanctions need to be high enough to have the desired deterrence effect. The damage is often irreversible and permanent, and we need to create truly effective deterrence. The rapporteur fully supports the proposal to set sanctions for legal persons based on their total worldwide turnover (Article 7(4)), however, she proposes to increase the percentage to 15 to ensure truly effective deterrence.

Effective enforcement requires capacities, skills, knowledge and training along the full enforcement chain. This is why the rapporteur suggests and supports the efforts to raise awareness and the competencies of investigation, prosecution and judges, as well as the creation of specialised courts, public prosecutors and police force. Furthermore, due to the nature of environmental crime, the role of the European Public Prosecutor's Office should be strengthened in this regard, especially in cases where the Member States fail to act.

While the rapporteur fully supports the improvements in the data collection and statistics, she stresses the importance of transparency in this regard. The rapporteur proposes to make public the statistical data in addition to the consolidated reviews of the Member States.

ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities in the preparation of the draft report:

Entity and/or person
EUFJE - The European Union Forum of Judges for the Environment
ENPE - European Network of Prosecutors for the Environment
IMPEL - European Union Network for the Implementation and Enforcement of Environmental Law
EnviCrimeNet
European Environmental Bureau
Humane Society International/Europe
BirdLife Europe
TRAFFIC
WWF European Policy Office
IFAW
Born Free Foundation
Wildlife Conservation Society (WCS)
U.S. Department of Justice
Prof. Dr. Michael G. Faure, Maastricht University
Prof. Kimmo Nuotio, University of Helsinki
Prof. Elina Pirjatanniemi, Åbo Akademi

AMENDMENTS

The Committee on the Environment, Public Health and Food Safety 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

Text proposed by the Commission

(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the

Amendment

(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the

Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment.

Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment ***and protecting human health, a prudent and rational utilisation of natural resources, promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combatting climate change. Pursuant to Article 191 of the Treaty on the Functioning of the European Union (TFEU), Union policy on the environment is to aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It is to be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.***

Amendment 2

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) According to the jurisprudence of the European Court of Human Rights and in particular under Articles 2, 3 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, environmental issues are linked to various human rights and human health. The exercise of certain rights can be undermined by the existence of harm to the environment and exposure to environmental risks.

Amendment 3

Proposal for a directive Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Pursuant to the Charter of Fundamental Rights of the European Union, the Union is to ensure the protection of fundamental rights, and in particular a high level of protection of the environment and the improvement of its quality (Article 37), a high level of human health protection (Article 35), the right to life (Article 2) and the right to personal integrity (Article 3). Considering that the impact of environmental crime not only affects biodiversity, climate and planetary boundaries, but also human rights and human and environmental health, the fight against environmental crime should be a priority at EU level in order to ensure the protection of these rights and prevent environmental damage.

Amendment 4

Proposal for a directive Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) This Directive serves to endorse and promote human rights, fundamental rights and the right to a healthy environment as a human right, as recognised in the jurisprudence of the European Court of Human Rights, Articles 2 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 35 and 37 of the Charter of Fundamental Rights of the European Union, and the Aarhus Convention.

Amendment 5

Proposal for a directive Recital 1 d (new)

Text proposed by the Commission

Amendment

(1d) In accordance with the Aarhus Convention, the Union is committed to upholding the right of every person to live in an environment adequate to his or her health and well-being.

Amendment 6

Proposal for a directive Recital 1 e (new)

Text proposed by the Commission

Amendment

(1e) The impact of environmental crimes not only affects biodiversity, climate and planetary boundaries, but also human rights and human and environmental health. The Union has committed to a range of long term sustainability goals with the overall aim of ‘living well, within the limits of our planet’. The Commission should continue its work on the management of natural resources to stay within planetary boundaries, and to avoid existential crises for the environment and humanity. That work should be based on science and harmonised indicators.

Amendment 7

Proposal for a directive Recital 1 f (new)

Text proposed by the Commission

Amendment

(1f) In the context of the next appraisal of environmental criminal law, the Commission should clarify how it is ensured that there is a clear legal competence on the basis of the environment on the content, the definitions of what constitutes good or bad environmental status, and which

issues are to be considered as criminal.

Amendment 8

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 ***significant, continuous and sustained*** rise in ***the number and severity of*** environmental criminal offences and their effects, which ***result in opportunity costs, in harm or the loss of ecosystem services and functions, environmental resilience and vitality, habitats and species, and*** undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly, ***becoming one of the largest criminal sectors in the world*** extending beyond the borders of the Member States in which the offences are committed. Such offences pose a threat to the environment, ***to the climate and the safety of the planet*** and therefore call for an appropriate and effective response, ***including enforced cross-border cooperation between competent authorities at Union and national level.***

Amendment 9

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council²⁰ and environmental sectoral law have not been sufficient in all environmental policy area to achieve compliance with Union law for the protection of the environment. Compliance should be strengthened by the

Amendment

(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council²⁰ and environmental sectoral law have not been sufficient in all environmental policy area to achieve compliance with Union law for the protection of the environment. Compliance should be strengthened by the

availability of criminal penalties, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties.

availability of ***sufficiently dissuasive and common*** criminal penalties, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties ***and increase deterrence. Environmental criminal law should be a complementary tool to prevent, act as a deterrent in relation to, and repair, behaviour that damages the environment.***

²⁰ 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 (OJ L 328, 6.12.2008, p. 28).

²⁰ 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 (OJ L 328, 6.12.2008, p. 28).

Amendment 10

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 at Union or national level, therefore this Directive should provide a general framework by defining autonomous environmental crimes, in addition to the Union-wide common set of definitions of specific environmental offences^{1a}.

^{1a} See Rome, IAI e AMBITUS, May 2022, p. 19.

Amendment 11

Proposal for a directive Recital 4

Text proposed by the Commission

(4) The effective investigation, prosecution and adjudication of environmental criminal offences should be improved. The list of environmental criminal offences which were set out in Directive 2008/99/EC should be revised and additional categories of offences based on the **most** serious breaches of Union environmental law should be added. Provisions on sanctions should be strengthened in order to **enhance their** deterrent effect as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.

Amendment

(4) The effective investigation, prosecution and adjudication of environmental criminal offences should be improved. The list of environmental criminal offences which were set out in Directive 2008/99/EC should be revised and additional categories of offences based on the serious breaches of Union environmental law should be added. ***Over leniency with regard to the punishment of what might have been seen as minor environmental crimes, results in a situation where the fines received for violation of environmental law represent a small fraction of the profits made by a company and could be regarded as a cost of doing business. A procedure should also be established to update automatically the list of criminal offences in this Directive as Union environmental law develops.*** Provisions on sanctions should be strengthened in order to ***have a*** deterrent effect as well as ***to adequately support*** the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences ***as well as to give a signal that it makes economic sense to comply with the environmental acquis.***

Amendment 12

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) Member States should provide for criminal penalties in their national legislation in respect of serious infringements of provisions of Union law concerning protection of the environment. In the framework of the common fisheries policy, Union law provides for comprehensive set of rules for control and

Amendment

deleted

enforcement under Regulation (EC) No 1224/2009²¹ and Regulation (EC) No 1005/2008 in case of serious infringements, including those that cause damage to the marine environment. Under this system the Member States have the choice between administrative and/or criminal sanctioning systems. In line with the Communication from the Commission on the European Green Deal²² and the EU Biodiversity Strategy for 2030²³, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008²⁴ should be established as criminal offences.

²¹ *Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1–153).*

²² **COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS** *The European Green Deal, COM/2019/640 final.*

²³ **COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS** *EU Biodiversity Strategy for 2030 Bringing nature back into our lives, COM/2020/380 final*

²⁴ *Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending*

Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999, (OJ L 286, 29.10.2008, p. 1–32).

Amendment 13

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, if such authorisation ***was illegal, breached the national or Union law, if it*** was obtained fraudulently, or by corruption, extortion or coercion. ***An authorisation that has breached the relevant Union legislation, irrespective of the eventual result of having issued the authorisation should also be considered unlawful.*** 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. ***Member States should criminalise autonomous and general categories of environmental offences by creating an offence of endangering the environment when a conduct directly or indirectly exposes the environment to an immediate risk of substantial damage or when a person knowingly acts in a manner that causes a substantial damage to the environment. Public authorities or bodies should not be excluded from being prosecuted for committing, inciting, aiding, abetting or attempting environmental crimes.***

Amendment 14

Proposal for a directive Recital 9

Text proposed by the Commission

(9) The environment should be protected in a wide sense, as set out under Article 3 (3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, wild fauna and flora including habitats - as well as *services provided by* natural resources.

Amendment

(9) The environment should be protected in a wide sense, as set out under Article 3 (3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, wild fauna and flora including habitats, *ecosystems and species populations* - as well as *prudent and rational use of* natural resources, *ecosystem services and functions, as well as respect for planetary boundaries*.

Amendment 15

Proposal for a directive Recital 10

Text proposed by the Commission

(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union legislation falling within the scope of criminal offences defined under this Directive, when the obligations under Union law remain unchanged in substance. However, when new legal instruments prohibit new conduct harmful to the environment, this Directive should be amended in order to add to the categories of criminal offences also the *new* serious breaches of Union environmental law.

Amendment

(10) The acceleration of climate change, biodiversity loss and environmental degradation, *as exemplified by exceedance of six of the nine planetary boundaries*, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity *and justice*. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union legislation falling within the scope of criminal offences defined under this Directive, when the obligations under Union law remain unchanged in substance. However, when new legal instruments prohibit new conduct harmful to the environment, this Directive should be amended in order to add to the categories of criminal offences also the serious

breaches of Union environmental law adopted after this Directive will have come into force. In such cases, the amendment of this Directive should be limited to the incorporation of new criminal offences, and only concern Article 3 and related provisions, in order to reflect such incorporation only.

Amendment 16

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) As enshrined in Article 13 of Title II TFEU, given that animals are sentient beings, environmental criminal offences should take full account of the welfare requirements of animals, . Member States should be able to adopt more stringent rules provided they are compatible with the provisions of the Treaty but Union legislation concerning the welfare conditions of farm animals lays down minimum standards. The European Convention for the Protection of Animals kept for Farming Purposes and the Council Directive 98/58/EC are based on the so-called “Five Freedoms” to ensure minimum Union standards for wild, farm, laboratory and companion animal welfare: freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury and disease, freedom to express normal behaviour and freedom from fear and distress. This includes the unjustified and systematic prescription of antibiotics with its negative impact regarding antimicrobial resistance (AMR) for human and animal health and for the ecosystem. Cruelty or causing avoidable pain, distress and suffering to animals should also be taken into consideration as an aggravating circumstance in the context of an environmental crime.

Amendment 17

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

Amendment 18

Proposal for a directive Recital 12 a (new)

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. 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 *their* public duty. In certain cases this may even take the form of corruption. Examples of such behaviours would be turning a blind eye or remaining silent when facing infringement, of laws protecting the environment following inspections, deliberately omitting inspections or controls for instance 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.

(12a) Forests are an essential ally in the fight against climate change and biodiversity loss. They function as carbon sinks, and help to reduce the impacts of climate change, for example by cooling down cities, protecting them from heavy flooding, and reducing drought impact. Especially with regard to offences that create a spiral of severe environmental damage falling within the scope of the EU Biodiversity Strategy for 2030, presenting an irreversible danger to the balance of whole ecosystems, such as illegal logging, starting forest fires and destruction of wildlife habitats or other offences against forests, should be taken into account as possible aggravating circumstances.

Amendment 19

Proposal for a directive Recital 13

(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence that causes death or serious injury of a person, substantial damage to the environment or is likely to cause substantial damage to the environment or is otherwise considered particularly harmful should also constitute a criminal offence when committed intentionally.

(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence that causes death or serious injury of a person, substantial damage to the environment or is likely to cause substantial damage to the environment or is otherwise considered particularly harmful should also constitute a criminal offence when committed intentionally. ***When such conduct is observed within public administration, it is essential to be able to bring the matter before the courts and apply criminal sanctions.***

Amendment 20

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, 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.

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 ***cost of reinstatement of*** the environment, exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations ***and making sentences public. The Commission should present, within one year of the entry into force of this Directive, guidance for national competent authorities, prosecutors and judges as to how to classify sanctions. In addition, guidelines should be developed by the Commission to assist the Member States in the harmonisation of sanction types and levels.*** This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

Amendment 21

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***

Amendment

(15) Legal persons should also be held criminally liable for environmental criminal offences according to this Directive. ***As is the case for natural persons, legal persons who are perpetrators, instigators or accomplices in offences should be held responsible and subject to criminal proceedings.*** Member States whose national law does not provide

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.

for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive, proportionate ***and, where possible, identical*** sanctions types and levels as laid down in this Directive in order to achieve its objectives. ***Member States should also ensure that it is possible to criminally prosecute natural persons acting in the name of a legal entity. The*** financial situation of legal persons, ***the direct and indirect environmental consequences in the short, medium and long term, as well as, if applicable, the reversible nature of the environmental damage*** should be taken into account to ensure the dissuasiveness of the sanction imposed. ***Finally, the level of criminal sanctions applicable to legal persons for other categories of offences should also be taken into account.***

Amendment 22

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

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. As the illegal profits, expenditure that can be generated or avoided through environmental crime are an important incentive for criminals ***and often fuel criminal organisations***, these should be taken into account when determining the appropriate level of sanctioning in the individual case.

incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case.

Amendment 23

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 and in the Union, the Union should seize the opportunity to remain a world leader in environmental protection legislation and to ensure there are harmonised definitions and sanctions ex ante, and not ex post. Member States should be urged to establish their jurisdiction over the offence of ecocide which is be defined, according to the Independent Expert Panel for the Legal Definition of Ecocide, as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused. That specific crime makes it possible to identify the most serious damage to the environment and thus to provide for a gradation of sanctions according to the gravity of the harm to the environment.

Amendment 24

Proposal for a directive Recital 17

Text proposed by the Commission

Amendment

(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have made financial gains, such

(17) Where the crimes are of a continuing nature ***and could have substantial or even irreversible consequences on the environment***, they

gains should be confiscated.

should be brought to an end as soon as possible *on the basis of the precautionary and preventive principles enshrined in Article 191(2) TFEU. Therefore the Commission should encourage Member States to establish a mechanism at national level to deal with cases in an accelerated procedure where there is a risk of irreversible or substantial damage to the environment.* Where offenders have made financial gains, such gains should be *fully* confiscated. *This Directive should also lay down the rules for the management of the confiscated gains. In line with the polluter pays principle, such confiscated financial gains should be used to repair damage caused, to compensate victims and to finance measures aimed at combatting similar crimes.*

Amendment 25

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 enforcement.

Amendment

(19) Member States should lay down rules concerning limitation periods necessary *for and adapted to the specificities of environmental damage, the occurrence of which is often spread over time*, 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. *Member States should also ensure that special measures of limitation may be applied in the case of concealment of an offence, that is to say where the offender has prevented its discovery. In that case, the time limit should run only from the day when the offence could be established under conditions that allow prosecution. Given the seriousness of the conduct concerned, there should be no limitation period for the criminal offence*

of ecocide and for the criminal offender that has affected natural ecosystems when such criminal offender is established as a legal entity.

Amendment 26

Proposal for a directive Recital 20

Text proposed by the Commission

(20) The obligations in this Directive to provide for criminal penalties should not exempt Member States from the obligation to provide for administrative sanctions and other measures in national law for breaches established in Union environmental legislation.

Amendment

(20) The obligations in this Directive to provide for criminal penalties should not exempt Member States from the obligation to provide for ***effective, proportionate, dissuasive and deterrent*** administrative sanctions and other measures in national law for breaches established in Union environmental legislation.

Amendment 27

Proposal for a directive Recital 21

Text proposed by the Commission

(21) Member States should define the scope of administrative and criminal law enforcement clearly with regard to environmental offences according to their national law. In the application of national law transposing this Directive, Member States should ensure that the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of ne bis in idem.

Amendment

(21) Member States should define the scope of administrative and criminal law enforcement clearly with regard to environmental offences according to their national law. ***Criminal proceedings and related sanctions should be fully separate and independent from administrative proceedings and sanctions.*** In the application of national law transposing this Directive, Member States should ensure that the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of ne bis in idem.

Amendment 28

Proposal for a directive Recital 22

Text proposed by the Commission

(22) Furthermore, judicial and administrative authorities in the Member States should have at their disposal a range of criminal sanctions and other measures to address different types of criminal behaviour in a tailored and effective manner.

Amendment

(22) Furthermore, judicial and administrative authorities in the Member States should have at their disposal a range of criminal sanctions and other measures, ***assessing the financial situation of legal persons*** to address different types of criminal behaviour in a tailored and effective manner, ***following the polluter pays principle with an adequate level of harmonisation at Union level to ensure effective cross-border cooperation, to prevent dual criminality and prevent low enforcement and low penalty levels. Guidelines should be developed by the Commission to assist Member States in the definition of levels of criminal sanctions and other measures to address the different types of criminal behaviour.***

Amendment 29

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 the mobility of perpetrators ***and proceeds stemming from criminal activities, as well as the complex*** cross-border investigations ***required to combat environmental crimes, including criminal conduct carried out in third states,*** Member States should establish jurisdiction in order to ***enable the competent authorities to investigate and prosecute such activities, including where an offence is committed, by means of information and communication technology, from their territory, whether or not such technology is based in such territory. Member States should thus***

extend their jurisdiction where an offence creates a risk for the environment on its territory or where it is committed against its residents. Considering the limits of the territoriality principle in applying criminal law to environmental crimes of a transboundary nature and the significant number of cases where Union actors are involved in environmental crimes taking place outside of the Union, Member States should be urged to introduce so-called universal jurisdiction for serious environmental crimes, in particular in relation to ecocide. Member States should also strengthen inter-agency cooperation between financial investigators and environmental crime agencies, to detect and pursue financial investigations into environmental crimes. Such cooperation should include working with foreign counterparts to share information, facilitate prosecutions and recover assets that are moved and held abroad^{1a}.

^{1a} inter-agency cooperation proposed in the 2021 report Money Laundering from Environmental Crime by The Financial Action Task Force (FATF), available at <https://www.fatf-gafi.org/media/fatf/documents/reports/Money-Laundering-from-Environmental-Crime.pdf>

Amendment 30

Proposal for a directive Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Cooperation with third countries should be intensified, in particular by encouraging and supporting the establishment of effective measures and mechanisms to combat environmental crimes.

Amendment 31

Proposal for a directive Recital 24

Text proposed by the Commission

(24) Environmental criminal offences harm nature and society. By reporting breaches of Union environmental law, **people** perform a service of public interest and play a key role in exposing and preventing such breaches, and thus safeguarding the welfare of society. Individuals in contact with an organisation in the context of their work-related activities are often the first to know about threats or harm to the public interest and the environment. Persons who report irregularities are known as whistleblowers. Potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the Council²⁵.

²⁵ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305/17).

Amendment 32

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24) Environmental criminal offences harm nature, **health, economy** and society. By reporting breaches of Union environmental law, **individuals and organisations, such as civil society organisations**, perform a service of public interest and play a key role in exposing and preventing such breaches, and thus safeguarding **the environment and** the welfare of society. Individuals in contact with an organisation in the context of their work-related activities are often the first to know about threats or harm to the public interest and the environment. Persons who report irregularities are known as whistleblowers. Potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced, **comprehensive** and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the Council²⁵.

²⁵ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305/17).

(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 ^{1a}. They may be directly threatened, intimidated, persecuted, harassed or even murdered by perpetrators, and as such should also benefit from balanced and effective protection. The Union's support for the establishment of an independent special rapporteur on environmental rights defenders under the Aarhus Convention, and consequently for the establishment of protection measures, is also a way to fight environmental crime more effectively.

^{1a} Global Witness (2021), Front line of defence Report.

Amendment 33

Proposal for a directive Recital 24 b (new)

Text proposed by the Commission

Amendment

(24b) By monitoring, raising awareness and educating on the issues related to and consequences of environmental crime, non-governmental organisations play a key role in effectively combatting environmental crime and preventing criminal behaviour more effectively.

Amendment 34

Proposal for a directive Recital 24 c (new)

Text proposed by the Commission

Amendment

(24c) Environmental defenders can also be subject to abusive lawsuits and threats, and should be protected from such abusive practices in accordance with the provisions of ^{1a}. [OP insert the reference

number for the Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”) (2022/0117COD)] .

^{1a} European Parliament 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 (2021/2036(INI)).

Amendment 35

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Other persons may also possess valuable information concerning potential environmental criminal offences. They may be members of the community affected or members of society at large taking an active part in protecting the environment. Such persons who report environmental crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings.

Amendment

(25) Other ***natural or legal*** persons may also possess valuable information concerning potential environmental criminal offences. They may be members of the community affected, ***non-governmental organisations*** or members of society at large taking an active part in protecting the environment. Such persons who report environmental crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted, ***in particular financially where appropriate***. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings.

Amendment 36

Proposal for a directive Recital 26

Text proposed by the Commission

(26) Since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus Convention²⁶, should have the possibility to act on behalf of the environment as a **public good**, within the scope of the Member States' legal framework and subject to the relevant procedural rules.

²⁶ United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

Amendment 37

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26) ***Considering the intrinsic value of nature and*** since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus Convention²⁶, should have the possibility to act on behalf of the environment as a ***natural common goods***, within the scope of the Member States' legal framework and subject to the relevant procedural rules. ***In order to ensure that the right to an effective remedy enshrined in Article 47 of the Charter of Fundamental Rights and Article 9(3) of the Aarhus Convention is respected, obstacles to access to justice should be limited by reducing the length and cost of proceedings for victims of environmental damage, increasing the powers of the courts to order effective compensation, and extending the possibility for members of the public to participate in proceedings as civil parties.***

²⁶ United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

(26a) The Commission should commit to

developing guidelines under this Directive to specify the procedural framework for the participation of members of the public in the criminal prosecution of environmental offences, including the definition of easily accessible admissibility criteria. The Commission could draw, for example, inspiration from legislation already in place in certain Member States, such as Spain, where criminal proceedings are public and can be brought by any citizen, thus becoming an accusatory party in the criminal proceedings.

Amendment 38

Proposal for a directive Recital 26 b (new)

Text proposed by the Commission

Amendment

(26b) The Commission should encourage Member States to take initiatives facilitating access to justice for members of the public.

Amendment 39

Proposal for a directive Recital 28

Text proposed by the Commission

Amendment

(28) The effective functioning of the enforcement chain depends on a range of specialist skills. As the complexity of the challenges posed by environmental offences and the technical nature of such crime require a multidisciplinary approach, a high level of legal knowledge, technical expertise as well as a high level of training and specialisation within all relevant competent authorities are necessary. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate

(28) The effective functioning of the enforcement chain depends on a range of specialist skills. As the complexity of the challenges posed by environmental offences and the technical nature of such crime require a multidisciplinary approach, a high level of legal knowledge, technical expertise ***and financial support*** as well as a high level of training and specialisation within all relevant competent authorities are necessary. Member States should provide training appropriate to the function of those who detect, investigate, prosecute

environmental crime. To maximise the professionalism and effectiveness of enforcement chain, Member States should also consider assigning specialised investigation units, prosecutors and criminal judges to deal with environmental criminal cases. General criminal courts could provide for specialised chambers of judges. Technical expertise should be made available to all relevant enforcement authorities.

or adjudicate environmental crime. To maximise the professionalism and effectiveness of enforcement chain, Member States should also consider assigning specialised investigation units, prosecutors and criminal judges to deal with environmental criminal cases. General criminal courts could provide for specialised chambers of judges. Technical expertise **and financial support** should be made available to all relevant enforcement authorities.

Amendment 40

Proposal for a directive

Recital 30

Text proposed by the Commission

(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal law measures, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. **Following the applicable rules**, Member States should also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.

Amendment

(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal law measures, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. **Potential perpetrators are generally legal actors given legitimacy as a consequence of various societal structures, for example paying tax on corporate earnings, providing jobs, being established within government policy structures, and political considerations arguably lead to a risk of such perpetrators being treated sympathetically by justice systems and policy^{1a}. Supervisory agencies can be under pressure to maintain good relationships with the companies they regulate, and to support local economic health^{1b}.** Member States should **therefore** also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF), in

their respective areas of competence,
including by setting up national contact points.

^{1a} Nurse, Angus: Contemporary Perspectives on Environmental Enforcement International journal of offender therapy and comparative criminology, 2022-03, Vol.66 (4), p.327-344.

^{1b} Environmental and Wildlife Crime in Sweden from 2000 to 2017, Stassen, Richard ; Ceccato, Vania; Favarin, Serena, Journal of contemporary criminal justice, 2020-08, Vol.36 (3), p.403-427.

Amendment 41

Proposal for a directive Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) With a view to closer cooperation between Member States on environmental crime, the Union should consider extending the mandate of the European Public Prosecutor's Office (EPPO) to the criminal offences defined in this Directive. The EPPO, which has its own powers and authority to coordinate investigations and prosecutions in cross-border cases, is currently the European body best placed to deal with the most serious environmental crimes with a cross-border dimension. An extension of the mandate of the EPPO to cover serious environmental crime with a cross-border dimension, via the European Council in accordance with Article 86(4) TFEU, is therefore necessary. The EPPO would thus be able to deal with crimes with a cross-border dimension for which the strengthening of the criminal response is unlikely to be achieved through the traditional channels of judicial

cooperation. In order to fulfil this new and broader task, EPPO needs adequate resources and funding targeted at environmental crime. The review of Directive (EU) 2017/1371 should propose an inclusion of environmental crimes in the criminal offenses covered by that Directive and an extension of the EPPO's mandate to cover serious environmental crimes.

Amendment 42

Proposal for a directive Recital 30 b (new)

Text proposed by the Commission

Amendment

(30b) To ensure there is an adequate, effective and persuasive level of investigation, prosecution and sanctioning of serious environmental crime in the territory of the Union, further harmonisation of Union criminal law is required. For this purpose, the Commission should present within 1 year of the entry into force of the Directive an analysis and proposals on how this would be achieved by strengthening the role of Eurojust and Europol, as well as with Union bodies, including the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF), with the units specialised in environmental crime.

Amendment 43

Proposal for a directive Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) Due to its global impact and cross-border nature, the Union and its Member States should 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 scope of the International Criminal Court to the crime of ecocide, and the Union and its Member States have a key role and responsibility in this regard.

Amendment 44

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. Member States should collect and report to the Commission, ***and make available online to the public, relevant statistical data on environmental offences, in particular specifying the sanctions imposed on the authors of offences. In order to facilitate the work of civil society actors, and in particular environmental non-governmental organisations, Member States should set up a public platform at national level to collect data on environmental crime. At European level,*** the Commission should regularly assess

and publish the results based on the data transmitted by the Member States.

Amendment 45

Proposal for a directive Recital 33

Text proposed by the Commission

(33) The statistical data collected under this Directive on environmental offences should be comparable between the Member States and collected on the basis of common minimum standards. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to define the standard format for statistical data transmission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁷.

²⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 46

Proposal for a directive Recital 33 a (new)

Text proposed by the Commission

Amendment

(33) The statistical data collected under this Directive on environmental offences should be comparable between the Member States and collected on the basis of common minimum standards. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to define the standard format for statistical data transmission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁷. ***Those data aggregated at European level should be available on a country-by-country basis according to the categories of information referred to in Article 21(2) of this Directive, under the supervision of Eurostat.***

²⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(33a) The Commission should, in close cooperation with the Member States monitor the justice systems' capacities to detect, prevent, respond to, and prosecute environmental crimes ,as well as to identify gaps and provide science-based and specialist recommendations and guidelines to better detect, investigate, prosecute or adjudicate environmental criminal offences.

Amendment 47

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 criminal offences and sanctions ***as regards environmental crimes and provides for means and resources to combat environmental crimes, with the aim of facilitating the proper implementation and enforcement of environmental legislation, and to helping*** protect the environment, ***its resilience and vitality*** more effectively.

Amendment 48

Proposal for a directive Article 2 – paragraph 1 – point 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) a law, an administrative regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Union legislation referred to in point (a).

Amendment

(b) a law, an administrative ***act or*** regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Union legislation referred to in point (a) ***or to the Union's strategic initiative in the field of the environment.***

Amendment 49

Proposal for a directive

Article 2 – paragraph 1 – point 1 – subparagraph 2

Text proposed by the Commission

The conduct shall be deemed unlawful even if carried out under an authorisation by a competent authority in a Member State when the authorisation was obtained fraudulently or by corruption, extortion or coercion;

Amendment

The conduct shall be deemed unlawful even if carried out under an authorisation by a competent authority in a Member State when the authorisation was ***illegal or*** obtained fraudulently or by corruption, extortion or coercion;

Amendment 50

Proposal for a directive

Article 2 – paragraph 1 – point 2

Text proposed by the Commission

(2) ‘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 2009/147/EC of the European Parliament and of the Council³⁰, 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 Council Directive 92/43/EEC³¹;

³⁰ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

³¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

Amendment

(2) ‘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 2009/147/EC of the European Parliament and of the Council³⁰, 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 Council Directive 92/43/EEC³¹ ***or a site which is inscribed on the UNESCO World Heritage list;***

³⁰ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

³¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

Amendment 51

Proposal for a directive

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

Text proposed by the Commission

Amendment

(2a) ‘illegal logging’ means any logging which infringes related Union and national rules and legislation and is not limited to cases which involve products or commodities within the scope of Regulation(EU) No 995/2010 of the European Parliament and of the Council, including conduct of a local, regional or national forest authority infringing Union law in the sphere of nature protection or a law implementing the Union’s strategic initiative in the sphere of nature protection;

Amendment 52

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;

Amendment 53

Proposal for a directive

Article 2 – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

(5a) ‘offering for sale’, ‘sale’ and ‘trade’ have the meaning laid down respectively in Article 2, points (i), (p), and (u) of Council Regulation (EC) No 338/97 and also cover offering for sale,

*sale and trade that occur online,
irrespective of the place of establishment
or residence of the providers of the
intermediary online services and of the
traders;*

Amendment 54

Proposal for a directive

Article 2 – paragraph 1 – point 5 b (new)

Text proposed by the Commission

Amendment

(5b) ‘placing on the market’ has the meaning laid down in Article 2 (10) of Regulation (EU) No 517/2014^{1a} of the European Parliament and of the Council, and Article 2 (10) of Regulation (EU) No. XX/XXXX [OP: please insert the number of the Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation] of the European Parliament and of the Council; it also covers the placing on the market occurring online;

^{1a} Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195–230).

Amendment 55

Proposal for a directive

Article 2 – paragraph 1 – point 5 c (new)

Text proposed by the Commission

Amendment

(5c) ‘planetary boundaries’ means the nine planetary life-support systems identified as part of the planetary boundaries framework: climate change,

biosphere integrity, which covers functional and genetic diversity, land system changes, freshwater use, biogeochemical flows, such as nitrogen and phosphorus, ocean acidification, atmospheric aerosol pollution, stratospheric ozone depletion and novel entities^{1a};

1a

<https://www.eea.europa.eu/publications/is-europe-living-within-the-planets-limits>

Amendment 56

Proposal for a directive

Article 2 – paragraph 1 – point 5 d (new)

Text proposed by the Commission

Amendment

(5d) ‘wanton’ means characterised by reckless disregard for causing damage which would be clearly excessive in relation to the social and economic benefits anticipated;

Amendment 57

Proposal for a directive

Article 2 – paragraph 1 – point 5 e (new)

Text proposed by the Commission

Amendment

(5e) ‘severe’ means a degree of damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or on natural, cultural or economic resources;

Amendment 58

Proposal for a directive

Article 2 – paragraph 1 – point 5 f (new)

Text proposed by the Commission

Amendment

(5f) ‘widespread’ means a type of damage which extends beyond a limited geographic area, is cross-border in nature, or is suffered by an entire ecosystem or species, or a large number of human beings;

Amendment 59

Proposal for a directive

Article 2 – paragraph 1 – point 5 g (new)

Text proposed by the Commission

Amendment

(5g) ‘long-term damage’ means damage which is irreversible or which cannot be repaired through natural recovery within a reasonable period of time;

Amendment 60

Proposal for a directive

Article 2 – paragraph 1 – point 5 h (new)

Text proposed by the Commission

Amendment

(5h) ‘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 earth’s planetary boundaries;

Amendment 61

Proposal for a directive

Article 2 – paragraph 1 – point 5 i (new)

Text proposed by the Commission

Amendment

(5i) ‘polluter pays principle’ means a principle according to which polluters should bear the costs of their pollution or environmental damage, including the cost of measures taken to prevent, control and remedy pollution, as well as the costs the polluters impose on society;

Amendment 62

Proposal for a directive

Article 2 – paragraph 1 – point 5 j (new)

Text proposed by the Commission

Amendment

(5j) ‘ecocide’ means unlawful or wanton acts committed with the knowledge that there is a substantial likelihood that those acts will cause severe and either wide-spread or long-term damage to the environment;

Amendment 63

Proposal for a directive

Article 2 – paragraph 1 – point 5 k (new)

Text proposed by the Commission

Amendment

(5k) ‘One Health Approach’ means an integrated, unifying approach that aims to sustainably balance and optimise the health of people, animals, plants and ecosystems. It recognises that the health of humans, domestic and wild animals, plants, and the wider environment including ecosystems are closely interlinked and inter-dependent;

Amendment 64

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that the following conduct constitutes a criminal offence when it is unlawful and committed intentionally:

Amendment

1. Member States shall ensure that the following conduct constitutes a criminal offence when it is unlawful and committed intentionally ***or negligently or in disregard of due diligence and duty of care, or of the obligation to be aware:***

Amendment 65

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, ***energy*** or substances or ionising radiation into air, soil or water which causes or is likely to cause death or substantial ***harm to human health or*** damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality***, animals or plants ***in line with the One Health approach;***

Amendment 66

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 substantial ***harm to human health or*** damage to air, water or soil quality, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality***, animals or plants as a result of the product's use on a larger scale;

Amendment 67

Proposal for a directive

Article 3 – paragraph 1 – point c – subparagraph 1 – 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 **Union** market, **export from the Union market**, or use of substances, whether on their own, in mixtures or in articles, including their **use in production processes and their** incorporation into articles, when:

Amendment 68

Proposal for a directive

Article 3 – paragraph 1 – point c – subparagraph 1 – point iii

Text proposed by the Commission

(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council³⁴; or

Amendment

(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council³⁴; or **with Regulation (EC) No 396/2005 of the European Parliament and of the Council^{34a}; or**

³⁴ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, (OJ L 309, 24.11.2009, p. 1–50).

³⁴ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, (OJ L 309, 24.11.2009, p. 1–50).

^{34a} **Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1–16).**

Amendment 69

Proposal for a directive

Article 3 – paragraph 1 – point c – subparagraph 1 – point iv a (new)

Text proposed by the Commission

Amendment

(iva) this activity is prohibited pursuant to Regulation (EC) No 1831/2003 of the European Parliament and of the Council^{1a} or is not in compliance with Regulation (EU) 2019/6 of the European Parliament and of the Council^{1b};

^{1a} **Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition, OJ L 268, 18.10.2003, p. 29–43.**

^{1b} **Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC, OJ L 4, 7.1.2019, p. 43–167.**

Amendment 70

Proposal for a directive

Article 3 – paragraph 1 – point c – subparagraph 1 – point iv b (new)

Text proposed by the Commission

Amendment

(ivb) this 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.**

Amendment 71

Proposal for a directive

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

Text proposed by the Commission

Amendment

(via) this activity is prohibited pursuant to Article 15(2) and Annex V of Regulation (EU) No 649/2012 of the European Parliament and of the Council;

Amendment 72

Proposal for a directive

Article 3 – paragraph 1 – point c – subparagraph 2

Text proposed by the Commission

Amendment

and it 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;

and it causes or is likely to cause substantial ***harm to human health or*** damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality***, animals or plants;

Amendment 73

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) any conduct in breach of Regulation (EU) 2017/852 of the European Parliament and of the Council^{1a};

^{1a} Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008.

Amendment 74

Proposal for a directive

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

Text proposed by the Commission

Amendment

(cb) any emission of substances into the environment of any substances or pollutant not in compliance with Directive 2008/50/EC of the European Parliament and of the Council^{1a} or with Directive 2004/107/EC of the European Parliament and of the Council^{1b};

^{1a} **Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.**

^{1b} **Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.**

Amendment 75

Proposal for a directive

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

Text proposed by the Commission

Amendment

(cc) deliberate release into the environment , cultivation and placing on the market of genetically modified organisms when those activities are not in compliance with the requirements set out in Directive 2001/18/EC of the European Parliament and of the Council, Regulation (EC) No 1829/2003 of the European Parliament and of the Council, and Directive 2009/41/EC of the European Parliament and of the Council;

Amendment 76

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) authorisation or the execution of a plan or project referred to in Article 6(3) of Council Directive 92/43/EEC^{1a} without an appropriate assessment of its implications for the site in view of the site's conservation objectives, referred to in that Article;

^{1a} Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

Amendment 77

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) authorisation or the execution of a plan or a project authorised without the conditions of the exemption under Article 4(7) of Directive 2000/60/EC^{1a} having been met;

^{1a} Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

Amendment 78

Proposal for a directive

Article 3 – paragraph 1 – point e – introductory part

Text proposed by the Commission

(e) the collection, transport, recovery or disposal of waste, the supervision of such operations and the after-care of disposal sites, including action taken as a dealer or a broker (waste management), when an unlawful conduct:

Amendment

(e) the collection, transport, **treatment**, recovery or disposal of waste, the supervision of such operations and the after-care of disposal sites, including action taken as a dealer or a broker (waste management), when an unlawful conduct:

Amendment 79

Proposal for a directive

Article 3 – paragraph 1 – point e – point i

Text proposed by the Commission

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council³⁹ ***and is undertaken in a non-negligible quantity***;

Amendment

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council³⁹;

³⁹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3–30).

³⁹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3–30).

Amendment 80

Proposal for a directive

Article 3 – paragraph 1 – point e – point ii

Text proposed by the Commission

(ii) concerns other waste than referred to in point (i) and 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

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or substantial ***harm to human health or*** damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality***, animals or plants;

Amendment 81

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 ***as defined in Article 3(2) of Directive 2008/56/EC and/or*** 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;

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 82

Proposal for a directive

Article 3 – paragraph 1 – point i

Text proposed by the Commission

(i) the installation, operation or dismantling of an installation in which a dangerous activity is carried out or in which dangerous substances, preparations or pollutants are stored or used falling within the scope of Directive 2012/18/EU of the European Parliament and of the Council⁴³, Directive 2010/75/EU of the

Amendment

(i) the installation, operation or dismantling of an installation in which a dangerous activity is carried out or in which dangerous substances, preparations or pollutants are stored or used falling within the scope of Directive 2012/18/EU of the European Parliament and of the Council⁴³, Directive 2010/75/EU of the

European Parliament and of the Council⁴⁴ or Directive 2013/30/EU of the European Parliament and of the Council⁴⁵ and 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;

⁴³ Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC Text with EEA relevance (OJ L 197, 24.7.2012, p. 1–37).

⁴⁴ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17–119).

⁴⁵ Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ L 178, 28.6.2013, p. 66–106).

European Parliament and of the Council⁴⁴ or Directive 2013/30/EU of the European Parliament and of the Council⁴⁵ and which causes or is likely to cause death or ***substantial harm to human health*** or substantial damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality***, animals or plants;

⁴³ Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC Text with EEA relevance (OJ L 197, 24.7.2012, p. 1–37).

⁴⁴ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17–119).

⁴⁵ Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ L 178, 28.6.2013, p. 66–106).

Amendment 83

Proposal for a directive

Article 3 – paragraph 1 – point j

Text proposed by the Commission

(j) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom⁴⁶, Council Directive 2014/87/Euratom⁴⁷ or Council Directive

Amendment

(j) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom⁴⁶, Council Directive 2014/87/Euratom⁴⁷ or Council Directive

2013/51/Euratom⁴⁸, 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;

⁴⁶ Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1–73).

⁴⁷ Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).

⁴⁸ Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12–21).

2013/51/Euratom⁴⁸, which causes or is likely to cause death or ***substantial harm to human health*** or substantial damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality***, animals or plants;

⁴⁶ Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1–73).

⁴⁷ Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).

⁴⁸ Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12–21).

Amendment 84

Proposal for a directive

Article 3 – paragraph 1 – point k

Text proposed by the Commission

(k) the abstraction of surface water or groundwater which causes ***or is likely to cause substantial damage to the ecological status or potential of surface water bodies or to the quantitative status of groundwater bodies***;

Amendment

(k) the abstraction of surface water or groundwater which causes ***that the long-term annual average rate of abstraction exceeds the available groundwater resource; or the alteration due to human intervention or abstraction to which the ground waterbody is subject which might result in a significant diminution in the***

status of associated surface waters, or in significant damage to terrestrial ecosystems which depend directly on the groundwater body; or alterations to flow direction resulting from level changes which cause saltwater or other intrusion, and indicate a sustained and clearly identified trend in flow direction, induced by human intervention, likely to result in such intrusions;

Amendment 85

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ka) committing a serious infringement within the meaning of Article 90 of Regulation (EC) No 1224/2009 of the European Parliament and of the Council^{1a};

^{1a} Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

Amendment 86

Proposal for a directive

Article 3 – paragraph 1 – point l

Text proposed by the Commission

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes ***IV and V*** (***when*** species in Annex *V* are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC⁴⁹ and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council⁵⁰, ***except for cases where the conduct concerns a negligible quantity of such specimens;***

⁴⁹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7–50).

⁵⁰ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7–25).

Amendment

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes ***A, B and C to Council Regulation (EC) No 338/97***, species ***listed*** in Annex *IV and Annex V* (***when populations of species*** are subject to the same measures as those adopted for species ***or populations*** in Annex IV) to Council Directive 92/43/EEC⁴⁹ and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council⁵⁰;

⁴⁹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7–50).

⁵⁰ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7–25).

Amendment 87

**Proposal for a directive
Article 3 – paragraph 1 – point l a (new)**

Text proposed by the Commission

Amendment

(la) the disregarding of the welfare requirements of animals as enshrined in Article 13 of Title II (TFEU) and further detailed in Union, national and regional legislation for wild, farm, laboratory and companion animals with particular regard to the freedom from hunger and thirst, the freedom from discomfort, the freedom from pain, injury and disease, the freedom to express normal behaviour and the freedom from fear and distress; including as provided for in specific Union legislation on the welfare of laying

hens^{1a}, broilers^{1b}, pigs^{1c} and calves^{1d}, on the protection of animals during transport and related operations^{1e} and on the protection of animals at the time of killing^{1f}; cruelty or causing avoidable pain, distress and suffering to animals shall be taken into consideration as an aggravating circumstance;

^{1a} Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens.

^{1b} Council Directive 2007/43/EC of 28 June 2007 laying down minimum rules for the protection of chickens kept for meat production.

^{1c} Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs.

^{1d} Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves.

^{1e} Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations.

^{1f} Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing.

Amendment 88

Proposal for a directive

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

Text proposed by the Commission

Amendment

(lb) unjustified and systematic prescription of antibiotics with its negative impact regarding antimicrobial resistance (AMR) for human and animal health and for ecosystems in line with the "One Health" approach;

Amendment 89

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, only as regards imports, in Annex C** to Council Regulation (EC) No 338/97⁵¹;

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 90

Proposal for a directive

Article 3 – paragraph 1 – point n

Text proposed by the Commission

(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council⁵², **except for cases where the conduct concerns a negligible quantity**; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of **Article 3** of that Regulation.]

Amendment

(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council⁵²; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of **Articles 3, 3a, 4 and 4a** of that Regulation.]

⁵² Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23–34).

⁵² Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23–34).

Amendment 91

Proposal for a directive

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

Text proposed by the Commission

Amendment

(na) noncompliance with respect to the legality and regularity of operations financed by the EAGF and EAFRD, and non-compliance with conditionality rules laid down in Regulation (EU) 2021/2116 of the European Parliament and of the Council^{1a}, in accordance with the Regulation (EC) No 2021/2116 of the European Parliament and of the Council^{1b};

^{1a} Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013.

^{1b} Rules related to operations and conditionalities laid down in Regulation (EU) 2021/2115 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD).

Amendment 92

Proposal for a directive

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

Text proposed by the Commission

Amendment

(nb) illegal logging;

Amendment 93

Proposal for a directive

Article 3 – paragraph 1 – point o

Text proposed by the Commission

Amendment

(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of Article 6(2) of the Directive 92/43/EEC, **when this deterioration is** significant;

(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of Article 6(2) of the Directive 92/43/EEC, **or the significant disturbance of a species for which the site has been designated, or any other site implementing the EU Biodiversity Strategy for 2030 or Union nature restoration law;**

Amendment 94

Proposal for a directive

Article 3 – paragraph 1 – point p – point ii

Text proposed by the Commission

Amendment

(ii) the conduct breaches a condition of permit issued under Article 8 or of authorisation granted under Article 9 of Regulation (EU) No 1143/2014 and 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;

(ii) the conduct breaches a condition of permit issued under Article 8 or of authorisation granted under Article 9 of Regulation (EU) No 1143/2014 and causes or is likely to cause death or **harm to human health or** damage to the quality of air, the quality of soil or the quality of water, or to **biodiversity, ecosystem services and functions, environmental resilience and vitality**, animals or plants;

Amendment 95

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ra) ecocide as defined in Article 2, point (5c) and in Article 3 (2a).

Amendment 96

Proposal for a directive

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

Text proposed by the Commission

Amendment

(rb) the significant harm of the environment in the case of public or private investments due to severely disrespecting the "do no significant harm" principle within the meaning of Article 17 of the Taxonomy regulation;

Amendment 97

Proposal for a directive

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

Text proposed by the Commission

Amendment

(rc) the environmental damage to forests, including through starting forest fires intentionally or due to a lack of due diligence, and the non-compliance with sustainability criteria pursuant to Article 29 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast);

Amendment 98

Proposal for a directive

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

Text proposed by the Commission

Amendment

(rd) the violation of standards as set in the Corporate Sustainability Due Diligence Directive (2022/0051(COD)) and the Corporate Sustainability Reporting Directive (2021/0104(COD));

Amendment 99

Proposal for a directive

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

Text proposed by the Commission

Amendment

(re) damage to the environment as defined in Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage;

Amendment 100

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the following conduct constitutes a criminal offence:

(a) any conduct that negatively affects the climate or the environment, including water, air, soil, biodiversity, habitats, ecosystem services and functions or their vitality, resilience and mutual interactions, or the health or well-being of people and animal health and welfare: the severity of which shall be considered in the light of the harm caused; and

(b) any conduct, which, directly or indirectly, exposes the environment or relevant human rights to an immediate risk of substantial damage. The awareness that the conduct could cause or

is likely to cause substantial damage, should be regarded as an aggravating circumstance.

Amendment 101

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. Member States shall ensure that the conduct referred to in paragraph 1 also constitutes a criminal offence, when committed with negligence.

Amendment 102

Proposal for a directive Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States are urged to establish their jurisdiction over the offence of ecocide for the most severe offences under Article 3(1) and (2), namely, unlawful or wanton conduct committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by that conduct.

Amendment 103

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

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 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 104

Proposal for a directive Article 3 – paragraph 3 – point c

Text proposed by the Commission

(c) severity of the damage;

account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation **and** prosecution of offences referred to in **paragraphs 1 and 1a**:

Amendment

(c) severity of the damage ***evaluated on the basis of the polluter pays principle and based on nomenclature, for judicial use only, describing the ecological, social, or monetary value of supplied ecosystem services or functions, environmental resilience or vitality lost or temporarily lost and the ecological, social and monetary value of specimens of wildlife affected or killed;***

Amendment 105

Proposal for a directive Article 3 – paragraph 3 – point d

Text proposed by the Commission

(d) spread of the damage;

Amendment

(d) spread of the damage ***evaluated on the basis of the polluter pays principle and based on nomenclature, for judicial use only, describing the ecosystem service or function, environmental resilience or vitality lost or temporarily lost, and the ecological, social and monetary value of specimens of wildlife affected or killed;***

Amendment 106

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ea) the scale of financial benefits gained, including the estimated cost of compliance, by committing the offence;

Amendment 107

Proposal for a directive

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

Text proposed by the Commission

Amendment

(eb) the conservation status of and trend regarding the species, population or habitat affected.

Amendment 108

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ec) whether the effects or likely effects on the environment are unacceptable taking into account the level of environmental protection which the relevant Union legislation aims to ensure;

Amendment 109

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ed) the duration of the infringement or non-compliance;

Amendment 110

Proposal for a directive

Article 3 – paragraph 4 – introductory part

Text proposed by the Commission

4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality of water, or to animals or plants 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

4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, **where relevant**, when assessing whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality of water, or to animals or plants for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1:

Amendment 111

Proposal for a directive

Article 3 – paragraph 4 – point a

Text proposed by the Commission

(a) the conduct relates to an activity which is considered as risky or dangerous, requires an authorisation which was not obtained or complied with;

Amendment

(a) the conduct relates to an activity which is considered as risky or dangerous, requires an authorisation which was not obtained, **updated** or complied with;

Amendment 112

Proposal for a directive

Article 3 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the duration of the infringement or non-compliance;

Amendment 113

Proposal for a directive

Article 3 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the consequences for human health and the nature of any violation of human rights;

Amendment 114

Proposal for a directive

Article 3 – paragraph 4 – point c b (new)

Text proposed by the Commission

Amendment

(cb) whether the damage to the quality or quantity of water led to a deterioration of the status of the water body as defined in the most recent River Basin Management Plan, in accordance with the statements of Annex V to Directive 2000/60/EC^{1a}.

^{1a} Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1–73).

Amendment 115

Proposal for a directive

Article 3 – paragraph 5 – introductory part

Text proposed by the Commission

Amendment

5. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the quantity is negligible or non-negligible for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (e), (f), (l), (m), (n):

5. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, **where relevant**, when assessing whether the quantity is negligible or non-negligible for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (e), (f), (l), (m), (n):

Amendment 116

Proposal for a directive

Article 3 – paragraph 5 – point b

Text proposed by the Commission

(b) the extent to which the regulatory threshold, value or another mandatory parameter is exceeded;

Amendment

(b) the extent to which the regulatory threshold, value or another mandatory parameter ***or hazardousness and toxicity threshold*** is exceeded;

Amendment 117

Proposal for a directive

Article 3 – paragraph 5 – point c

Text proposed by the Commission

(c) the conservation status of the fauna or flora species concerned;

Amendment

(c) the conservation status ***of the relevant populations*** of the fauna or flora species concerned;

Amendment 118

Proposal for a directive

Article 3 – paragraph 5 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the level of protection provided to the area or species concerned;

Amendment 119

Proposal for a directive

Article 3 – paragraph 5 – point c b (new)

Text proposed by the Commission

Amendment

(cb) the ecological, social and monetary value of the supplied ecosystem service lost or temporarily lost, evaluated on the basis of the polluter pays principle and based on nomenclature for judicial

use only;

Amendment 120

Proposal for a directive

Article 3 – paragraph 5 – point d a (new)

Text proposed by the Commission

Amendment

(da) the ecological, social and monetary value of carbon stored in the ecosystem, including soil, and emitted to the atmosphere following the damage, evaluated on the basis of the polluter pays principle and based on nomenclature for judicial use only;

Amendment 121

Proposal for a directive

Article 3 – paragraph 5 – point d b (new)

Text proposed by the Commission

Amendment

(db) the potential quantity of financial benefits, including estimated cost of compliance, gained by committing the offence, taking account of the polluter pays principle;

Amendment 122

Proposal for a directive

Article 3 – paragraph 5 – point d c (new)

Text proposed by the Commission

Amendment

(dc) whether the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA, or linked to corruption, fraud, extortion or coercion.

Amendment 123

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

Text proposed by the Commission

Amendment

5a. For the offences mentioned in this Article, and in line with Article 25(3), Member states shall continuously ensure that new and updated legislation at Union, national and regional level regarding those offences is duly taken into account.

Amendment 124

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

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) are punishable as criminal offences.

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) **and (1a)** are punishable as criminal offences.

Amendment 125

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

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) **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.

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)** when committed intentionally is punishable as a criminal offence.

Amendment 126

Proposal for a directive

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the chief executive officer or other senior management officials of undertakings can be prosecuted independently as a natural person if they have committed the offences referred to in Articles 3 and 4, irrespective of whether the undertaking as a legal person is also being prosecuted.

Amendment 127

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (a) to (j), (n), (q), (r) are punishable by a maximum term of imprisonment of at least six years.

3. ***If paragraph 2 is not applicable,*** Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (a) to (j), (n), ***(nb)***, (q), (r), ***(rb)***, ***(rc)***, ***(rd)***, ***(re)*** and ***Article 3(1a)*** are punishable by a maximum term of imprisonment of at least six years.

Amendment 128

Proposal for a directive

Article 5 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (k), (l), (m), (o), (p) are punishable by a maximum term of imprisonment of at least four years.

4. ***If paragraph 2 is not applicable,*** Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (k), ***(ka)***, (l), ***(la)***, (m), ***(na)***, (o), (p) are punishable by a maximum term of imprisonment of at least four years.

Amendment 129

Proposal for a directive Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall take the necessary measures to develop alternative measures to imprisonment in order to contribute to the restoration of the environment.

Amendment 130

Proposal for a directive Article 5 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 are liable to a proportionate fine or imprisonment.

Amendment 131

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

Text proposed by the Commission

Amendment

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

(a) obligation to reinstate the environment within a given time period, **fully cover the cost of reinstating the environment and to compensate for the damage caused according to the polluter pays principle;**

Amendment 132

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

Text proposed by the Commission

Amendment

(aa) obligation to cover cost of placement of confiscated animals in a rescue centre or other appropriate interim facility;

Amendment 133

Proposal for a directive

Article 5 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) fines;

(b) fines **that are proportionate to the gravity and duration of the damage caused and sufficient to fulfil their punitive and deterrent function;**

Amendment 134

Proposal for a directive

Article 5 – paragraph 5 – point c

Text proposed by the Commission

Amendment

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

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

Amendment 135

Proposal for a directive

Article 5 – paragraph 5 – point d

Text proposed by the Commission

Amendment

(d) disqualification from directing establishments of the type used for committing the offence;

(d) disqualification from directing establishments of the type used for committing the offence, **including in other Member States;**

Amendment 136

Proposal for a directive

Article 5 – paragraph 5 – point e

Text proposed by the Commission

(e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;

Amendment

(e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence, ***including in other Member States or parts of the Member States;***

Amendment 137

Proposal for a directive

Article 5 – paragraph 5 – point e a (new)

Text proposed by the Commission

Amendment

(ea) bans on pursuit of activities which have resulted in committing the offence;

Amendment 138

Proposal for a directive

Article 5 – paragraph 5 – point e b (new)

Text proposed by the Commission

Amendment

(eb) lifelong prohibition on working with and owning animals;

Amendment 139

Proposal for a directive

Article 5 – paragraph 5 – point g a (new)

Text proposed by the Commission

Amendment

(ga) payment of damages based on civil liability, particularly where environmental reinstatement is no longer possible;

Amendment 140

Proposal for a directive

Article 5 – paragraph 5 – point g b (new)

Text proposed by the Commission

Amendment

(gb) reimbursement of costs incurred by third parties who have investigated, reported or sued the offender.

Amendment 141

Proposal for a directive

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 ***where such offences have been committed for their benefit by any person who has a leading position within the legal person, acting either individually or as part of an organ of the legal person, based on:***

1. Member States shall ensure that legal persons can be held liable for offences referred to in Articles 3, and 4.

Amendment 142

Proposal for a directive

Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) a power of representation of the legal person;

deleted

Amendment 143

Proposal for a directive

Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) an authority to take decisions on

deleted

behalf of the legal person;

Amendment 144

Proposal for a directive

Article 6 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) an authority to exercise control within the legal person.

deleted

Amendment 145

Proposal for a directive

Article 6 – paragraph 2

Text proposed by the Commission

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 and 4 for the benefit of the legal person by a person under its authority.

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control, **if applicable, throughout its entire supply chain** 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 146

Proposal for a directive

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that the responsible corporate officer is always the chief executive officer or other senior management officials, whether or not sharing the responsibility with the elected board.

Amendment 147

Proposal for a directive Article 6 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Member States shall prohibit the trading of corporate liability for individual liability.

Amendment 148

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) is punishable by effective, proportionate and dissuasive sanctions.

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) is punishable by effective, proportionate and dissuasive sanctions. ***Where possible, those sanctions shall be identical across Member States. The level of sanctions shall be graduated, reflecting the degree of severity and duration of the environmental consequences.***

Amendment 149

Proposal for a directive Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall take the necessary measures to ensure that precautionary measures pending the judgment allow for the immediate cessation of the criminal activity or the obligation to reinstate the environment where there is a risk of substantial or irreversible damage to the environment.

Amendment 150

Proposal for a directive

Article 7 – paragraph 2 – point a

Text proposed by the Commission

- (a) criminal or non-criminal fines;

Amendment

- (a) criminal or non-criminal fines,
***proportionate to the financial benefits
gained by committing the offence and
high enough to have a deterrent effect;***

Amendment 151

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 ***fully cover the
cost of reinstating, with reinstatement to
be executed by contracted experts,*** the environment within a given ***time*** period ***and to pay compensation for the damage caused;***

Amendment 152

Proposal for a directive

Article 7 – paragraph 2 – point c

Text proposed by the Commission

- (c) exclusion from entitlement to public benefits or aid;

Amendment

- (c) exclusion from entitlement to public benefits or aid, ***including in other
Member States;***

Amendment 153

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

Amendment

- (d) temporary exclusion from access to public funding, including tender

procedures, grants and concessions;

procedures, grants and concessions,
including in other Member States;

Amendment 154

Proposal for a directive

Article 7 – paragraph 2 – point e

Text proposed by the Commission

(e) temporary or permanent disqualification from the practice of business activities;

Amendment

(e) temporary or permanent disqualification from the practice of business activities, *including in other Member States;*

Amendment 155

Proposal for a directive

Article 7 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) lifelong prohibition on working with and owning animals;

Amendment 156

Proposal for a directive

Article 7 – paragraph 2 – point j

Text proposed by the Commission

Amendment

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

(j) obligation of companies to install due diligence schemes for enhancing compliance with environmental standards *where this is not a legal obligation;*

Amendment 157

Proposal for a directive

Article 7 – paragraph 2 – point j a (new)

Text proposed by the Commission

Amendment

(ja) reimbursement of costs incurred by third parties who have investigated, reported or sued the offender;

Amendment 158

Proposal for a directive

Article 7 – paragraph 2 – point k a (new)

Text proposed by the Commission

Amendment

(ka) removal from the European Transparency Register.

Amendment 159

Proposal for a directive

Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(2) is punishable by sanctions or measures, which are effective, proportionate and dissuasive.

3. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(2) is punishable by sanctions or measures, which are effective, proportionate and dissuasive. **Criminal liability of an enterprise may be transferred to the successor company.**

Amendment 160

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

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 **12%** of the total worldwide turnover of the legal person[/undertaking]

the legal person [/undertaking] in the business year preceding the fining decision.

in the business year preceding the fining decision.

Amendment 161

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

Amendment 162

Proposal for a directive Article 7 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The maximum limit of fines shall be extended to 15% in the case of offences with aggravating circumstances as referred to in Article 8, and in the case of ecocide.

Amendment 163

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

Text proposed by the Commission

Amendment

(-a) the offence is committed intentionally or in the knowledge that it causes or is likely to cause human rights violations or substantial damage to the

environment;

Amendment 164

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, ***livestock or companion animals, or has resulted in a large-scale impact on a wildlife stock.***

Amendment 165

Proposal for a directive

Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem;

Amendment

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem ***or to the conservation of populations of wild animals or plant species covered by Council Regulation (EC) No 338/97, Council Directive 92/43/EEC and Directive 2009/147/EC of the European Parliament and of the Council;***

Amendment 166

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ba) outstanding natural values of the area concerned, indicated, for example, by an award of strict protection, or it being a core area of national park, or a UNESCO heritage site;

Amendment 167

Proposal for a directive

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

Text proposed by the Commission

Amendment

(bc) the offence was committed within a protected site of a Member State, such as Natura 2000 area, or in an area where the offence is likely to have a significant effect in view of a protected site's conservation objectives;

Amendment 168

Proposal for a directive

Article 8 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the offence was committed **in the framework of** a criminal organisation **within the meaning** of Council Framework Decision 2008/841/JHA⁵⁶ ;

(c) the offence was committed **within** a criminal organisation **in the sense** of Council Framework Decision 2008/841/JHA⁵⁶ ;

⁵⁶ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.

⁵⁶ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.

Amendment 169

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 corruption**;

Amendment 170

Proposal for a directive

Article 8 – paragraph 1 – point e

Text proposed by the Commission

(e) the offence was committed by a public official when performing **his/her** duties;

Amendment

(e) the offence was committed by a public official when performing **their** duties;

Amendment 171

Proposal for a directive

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

Text proposed by the Commission

Amendment

(fa) the offender has already received an admonition penalty, administrative or criminal sanction based on this Directive or Directive 2008/99/EC or based on sectoral environmental law not covered by Directive 2008/99/EC;

Amendment 172

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ia) the offender actively proceeded with the unlawful conduct after an infringement procedure in the respective policy area related to the activity of the offender had been launched by the Commission;

Amendment 173

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ja) the offender committed an offence under Article 3 in relation to respective emission limit values while subject to a derogation under Article 15(4) of

Amendment 174

Proposal for a directive

Article 8 – paragraph 1 – point j b (new)

Text proposed by the Commission

Amendment

(jb) the offence was committed together with other criminal offences;

Amendment 175

Proposal for a directive

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

Text proposed by the Commission

Amendment

(jc) the offence caused the unnecessary and avoidable suffering of animals.

Amendment 176

Proposal for a directive

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Member States shall take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, the following circumstances may be regarded as mitigating circumstances:

Member States shall take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, the following circumstances may be regarded as mitigating circumstances, **which means only factors that are relevant as regards reducing the penalty:**

Amendment 177

Proposal for a directive

Article 9 – paragraph 1 – point a

Text proposed by the Commission

- (a) the offender restores nature to its previous condition;

Amendment

- (a) the offender restores nature to its previous condition ***prior to legal action***;

Amendment 178

**Proposal for a directive
Article 10 – paragraph 1**

Text proposed by the Commission

Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council⁵⁸, the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offences as referred to in this Directive.

⁵⁸ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

Amendment

1. Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council⁵⁸, the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offences as referred to in this Directive.

⁵⁸ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

Amendment 179

**Proposal for a directive
Article 10 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. ***Member States shall take the necessary measures to ensure frozen and confiscated assets are appropriately managed, in line with their nature, and, where possible, used to finance reparations.***

Amendment 180

Proposal for a directive

Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where appropriate, Member States shall use confiscated assets:

Amendment 181

Proposal for a directive

Article 10 – paragraph 1 b (new) – point a (new)

Text proposed by the Commission

Amendment

(a) to fully cover the cost of reinstatement of the environment, compensate victims and/or finance measures aimed at combatting similar crimes;

Amendment 182

Proposal for a directive

Article 10 – paragraph 1 b (new) – point b (new)

Text proposed by the Commission

Amendment

(b) to fully cover the costs associated with the appropriate management, housing and care of confiscated live animals in an appropriate interim facility;

Amendment 183

Proposal for a directive

Article 10 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Confiscated wildlife products shall be offered to appropriate public entities

for genuine educational and conservation purposes or shall be destroyed.

Amendment 184

Proposal for a directive

Article 10 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. Animal shelters, sanctuaries, rescue centres and any other appropriate interim facilities shall be equipped to accommodate and address the specific needs of confiscated specimens of wild fauna species subject to the offences listed in points (l) and (m) of Article 3(1), to assist in the recovery and provide adequate and appropriate living conditions with a view to a release, when possible. Member States shall ensure that confiscated live animals are properly housed, fed and cared for.

Amendment 185

Proposal for a directive

Article 11 – title

Text proposed by the Commission

Amendment

Limitation periods for criminal offences

Limitation periods for criminal offences
and the introduction of custodial penalties

Amendment 186

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

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

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, *charging*, prosecution *and* trial of criminal offences referred to in

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.

Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences ***or from the discovery of the offence*** in order for those criminal offences to be tackled effectively. ***For the crimes comparable to or qualifying as an offence of ecocide and crimes affecting an ecosystem that is established as a legal entity there shall be no limitation period.***

Amendment 187

Proposal for a directive

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that special measures of limitation may be applied in the case of concealment of an offence, that is to say where the offender has prevented its discovery. In that case, the time limit shall run only from the day when the offence could be established under conditions that allow prosecution.

Amendment 188

Proposal for a directive

Article 11 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall take the necessary measures to ensure that the limitation period of criminal offences referred to in Articles 3 and 4 does not take effect until the concrete scope of the damage to the environment has been fully measured by appropriate scientific means.

Amendment 189

Proposal for a directive

Article 11 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member State shall take necessary measures to enable the investigation, prosecution, trial **and judicial decision**:

Amendment

2. Member State shall take necessary measures to enable the investigation, **charging**, prosecution and trial :

Amendment 190

Proposal for a directive

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least ten years of imprisonment, **for a** period of at least ten years from the time when the offence was committed, when offences are punishable;

Amendment

(a) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least ten years of imprisonment, **and which have a limitation period** of at least ten years from the time when the offence was committed **or from the time of discovery of the offence**, when offences are punishable;

Amendment 191

Proposal for a directive

Article 11 – paragraph 2 – point b

Text proposed by the Commission

(b) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least six years of imprisonment, **for a** period of at least **six** years from the time when the offence was committed, when offences are punishable;

Amendment

(b) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least six years of imprisonment, **with a limitation** period of at least **ten** years from the time when the offence was committed **or from the time of discovery of the offence**, when offences are punishable;

Amendment 192

Proposal for a directive

Article 11 – paragraph 2 – point c

Text proposed by the Commission

(c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least four years of imprisonment, ***for a*** period of at least ***four*** years from the time when the offence was committed, when offences are punishable.

Amendment

(c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least four years of imprisonment, ***with a limitation*** period of at least ***six*** years from the time when the offence was committed ***or from the time of discovery of the offence***, when offences are punishable;

Amendment 193

Proposal for a directive

Article 11 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. Member States shall take the necessary measures to enable the enforcement of:

Amendment

4. Member States shall take the necessary measures to enable the enforcement of ***custodial penalties within the following limitation periods***:

Amendment 194

Proposal for a directive

Article 12 – paragraph 1 – point d

Text proposed by the Commission

(d) the offender is one of its nationals or habitual residents.

Amendment

(d) the offender is one of its nationals or habitual residents, ***and regardless of whether the offence takes place in a Member State or a third country***;

Amendment 195

Proposal for a directive

Article 12 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

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

territory;

Amendment 196

Proposal for a directive

Article 12 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the offence has created a severe risk for the environment on its territory.

Amendment 197

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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:

A Member State shall **take the necessary measures and** 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:

Amendment 198

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the offence is committed for the benefit of a legal person established on its territory;

deleted

Amendment 199

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 1 – 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 on its territory.

for the environment, ***biodiversity, ecosystem services and functions, environmental resilience and vitality or a severe risk in relation to the One Health approach, and/or the conservation of native wildlife populations and their habitats*** on its territory.

Amendment 200

Proposal for a directive

Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall aim to take the necessary measures to establish on their territory specialised environmental courts or shall aim to ensure that general criminal courts provide for specialised chambers of judges to prosecute, investigate and judge the offences defined in Article 3 and 4 of this Directive.

Amendment 201

Proposal for a directive

Article 12 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The Commission shall develop sentencing guidelines in order to assist the Member States and their authorities in proper and harmonised implementation of the Directive including sanctions that are effective and dissuasive, and proportionate to the offence committed.

Amendment 202

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that protection granted under Directive (EU) 2019/1937, **is applicable to** persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.

Amendment

1. Member States shall take the necessary measures to ensure that protection **is applicable to natural persons, as** granted under **Article 4 of** Directive (EU) 2019/1937, **and legal** persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.

Amendment 203

**Proposal for a directive
Article 13 – paragraph 2**

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and 4 of this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary support and assistance in the context of criminal proceedings.

Amendment

2. Member States shall take the necessary measures to ensure that **natural and legal** persons reporting offences referred to in Articles 3 and 4 of this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary support and assistance in the context of criminal proceedings, **including sufficient financial support where appropriate.**

Amendment 204

**Proposal for a directive
Article 13 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. The Commission shall create a platform to enable persons to report environmental offences anonymously. That platform shall also allow persons to provide information about how the concerned Member States have dealt with the environmental offence. The Commission shall actively follow up on serious allegations with the concerned Member States, and shall publish

regularly on the received reports.

Amendment 205

Proposal for a directive

Article 13 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall take the necessary measures to ensure that legal and natural persons reporting criminal offences referred to in Articles 3 and 4 of this Directive are protected against strategic lawsuits against public participation.

Amendment 206

Proposal for a directive

Article 14 – title

Text proposed by the Commission

Amendment

Rights for the public *concerned to participate in proceedings*

Rights *to information, participation and access to justice* for the public

Amendment 207

Proposal for a directive

Article 14 – paragraph -1

Text proposed by the Commission

Amendment

Member States shall ensure that all the information enabling the public to know about the state of the proceedings prosecuted under this Directive, including the final judgments and the level of sanctions imposed by the judge, and, in accordance with the legal framework of the Member State, about the arrangements for intervention in proceedings is considered to be in the public interest and is made available and

accessible to the public.

Amendment 208

Proposal for a directive

Article 14 – paragraph 1

Text proposed by the Commission

Member States shall ensure that, in accordance with their national legal system, members of the public **concerned** have appropriate rights to participate in proceedings concerning offences referred to in Articles 3 and 4, for instance as a civil party.

Amendment

Member States shall ensure that, in accordance with their national legal system, members of the public have appropriate **and effective** rights to participate in proceedings concerning offences referred to in Articles 3 and 4, for instance as a civil party, **particularly in the absence of identifiable victims, to represent and defend the environment. Member States shall thus ensure a fair, equitable and timely procedure, non-prohibitive costs and the right to be defended or represented in court. Access to justice shall not be prohibitively expensive for those individuals and NGOs to protect the environment, biodiversity, ecosystems or animals. Member States shall aim to establish a mechanism at national level to deal with complaints in an accelerated procedure where there is a risk of irreversible or serious damage to the environment.**

Amendment 209

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

Member States shall take appropriate action, such as information and awareness-raising campaigns and research and education programmes, to reduce overall environmental criminal offences, raise public awareness and reduce the risk of population of becoming a victim of an environmental criminal offence. Where

Amendment

Member States shall take appropriate action, such as information and awareness-raising campaigns **targeting all relevant stakeholders from the public and private sectors, preventive and proactive law enforcement tools, such as risk assessments, as well as situational crime prevention, anti-corruption,** and research

appropriate, Member States shall act in cooperation with the relevant stakeholders.

and education programmes, ***including the study of the origin and motivation for committing environmental crimes***, to reduce overall environmental criminal offences, raise public awareness and reduce the risk of population of becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders, ***including civil society organisations***.

Amendment 210

Proposal for a directive Article 16 – paragraph 1

Text proposed by the Commission

Member States shall ensure that national authorities which detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment

Member States shall ensure that national authorities which ***prevent***, detect, investigate, prosecute or adjudicate environmental offences ***and authorities which carry out the inspections***, have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

Amendment 211

Proposal for a directive Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall identify specific staff with expertise in environmental crime forming part of the enforcement and judicial chain, including investigating capacity, police, prosecutors, lawyers and judges, and train them and provide resources to them to deal with environmental cases. Member States shall make technical expertise available to

all relevant enforcement authorities.

Amendment 212

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 to *ensure the effective achievement of* the objectives of this Directive and appropriate to the functions of the involved staff and authorities. *The specialised training shall also provide tools to effectively fight financial crimes and cybercrimes.*

Amendment 213

Proposal for a directive Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall provide a sufficient number of qualified staff and experts, and sufficient resources and training in order to ensure that judicial and enforcement personnel, including judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations, have the appropriate expertise, including qualifications, in environmental crime and environmental issues.

Amendment 214

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Amendment

1. Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime, ***financial crime, cybercrime,*** or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

Amendment 215

Proposal for a directive Article 18 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. ***Member States shall take the necessary measures to ensure there is a sufficient number of specialised environmental human resources, such as police, lawyers and judges, along the enforcement, inspection and judicial chain.***

Amendment 216

Proposal for a directive Article 18 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. ***By [OP – please insert the date - two years after the entry into force of this Directive], Member States and the Commission shall establish an Environmental Crime Knowledge Network to aggregate, process and disseminate knowledge, expertise and information relevant to preventing, detecting, investigating, prosecuting or***

adjudicating environmental crimes, and other processes relevant to the implementation and enforcement of this Directive, building on the experience of the EnviCrimeNet.

Amendment 217

Proposal for a directive

Article 19 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the exchange of information on offenders to prevent persons who committed environmental offences resuming their criminal activities in another Member State or within a Member State;

Amendment 218

Proposal for a directive

Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Cooperation between the Member States and the Commission, including OLAF, and other Union institutions, bodies, offices or agencies

1. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, the Member States, Eurojust, Europol, the European Public Prosecutor's Office and the Commission, including OLAF, shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission, including OLAF, as provided in paragraph (3), and where appropriate, Eurojust, shall provide such technical and operational assistance as

the competent national authorities need to facilitate coordination of their investigations.

2. The European Public Prosecutor's Office (EPPO) shall, with its own powers and authority, coordinate investigations and prosecutions in cross-border cases, serious cases and cases in which Member States fail to take effective action against environmental crime.

3. The Commission, including OLAF, or the relevant Union institutions, bodies, offices or agencies, in particular Eurojust and Europol, shall organise on-the-spot visits in the Member States, on a case-by-case basis, in close collaboration with the Member States concerned, to provide additional support to the activities provided for in this Regulation. The Commission, including OLAF, may also:

(a) conduct administrative investigations with assistance from the competent national authorities where necessary;

(b) coordinate the actions of national authorities based on the tools provided for in Regulation (EC) 515/97 which shall apply mutatis mutandis.

When providing support to the competent judicial authorities, the Commission, including OLAF, shall refrain from performing acts or taking measures that could jeopardise the investigation or prosecution.

Amendment 219

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 **short, medium, long-term and time-bound** objectives and priorities of national policy in this area of offence;

Amendment 220

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, ***exchange of best practices*** and cooperation between the competent authorities ***and between their competent national authorities and the competent national authorities of other Member States ; including on the management of confiscated gains;***

Amendment 221

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) guidelines for the use for environmental restoration actions of the proceeds of administrative and criminal sanctions or confiscated assets.

Amendment 222

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ea) specific steps to secure the necessary resources, both human and financial, and how to support the specialisation of law enforcement professionals;

Amendment 223

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 **data sharing and** regular monitoring, evaluation **and reporting** of the results achieved;

Amendment 224

Proposal for a directive

Article 20 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the strategy is reviewed and updated at regular intervals no longer than **5** years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding environmental crime.

Amendment

2. Member States shall ensure that the strategy is reviewed and updated at regular intervals no longer than **4** years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding environmental crime.

Amendment 225

Proposal for a directive

Article 21 – paragraph 2 – point b

Text proposed by the Commission

(b) the number of environmental crime cases investigated;

Amendment

(b) the number of environmental crime cases investigated, **and separately for those involving cross-border cooperation**;

Amendment 226

Proposal for a directive

Article 21 – paragraph 2 – point c

Text proposed by the Commission

(c) the average length of the criminal

Amendment

(c) the average length of the criminal

investigations of environmental crimes;

investigations of environmental crimes, *as well as the maximum length*;

Amendment 227

Proposal for a directive

Article 21 – paragraph 2 – point g

Text proposed by the Commission

(g) the number of dismissed court cases for environmental crime;

Amendment

(g) the number of dismissed court cases for environmental crime, *and separately the number of dismissals due to the expiry of the limitation period*;

Amendment 228

Proposal for a directive

Article 21 – paragraph 3

Text proposed by the Commission

3. Member States shall *ensure that a consolidated review of their statistics is regularly published*.

Amendment

3. Member States shall *publish annually the statistical data referred to in paragraph 2 in a standard, accessible and comparable format established in accordance with Article 22 and in a raw version*.

Amendment 229

Proposal for a directive

Article 21 – paragraph 4

Text proposed by the Commission

4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard format established in accordance with Article 22.

Amendment

4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard *accessible and comparable* format established in accordance with Article 22. *Those data aggregated at Union level shall be available on a country-by-country basis according to the categories of information referred to in paragraph 2, under the supervision of*

Amendment 230

Proposal for a directive

Article 21 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission and Member States shall create at Union level, a database on the number of actions carried out in the field of environmental crimes by law enforcement bodies, on a platform that would allow unitary collection of data and increase the degree of digitalisation.

Amendment 231

Proposal for a directive

Article 22 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall be empowered to adopt implementing acts establishing the standard format for data transmission referred to in Article 21(4). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).

1. The Commission shall be empowered to adopt implementing acts establishing the standard format **and timeline** for data transmission referred to in Article 21(4). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).

Amendment 232

Proposal for a directive

Article 22 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) a common classification of environmental crimes;

(a) a common classification of environmental crimes **as well as sanctions that are effective, dissuasive and proportionate to the offence committed;**

Amendment 233

Proposal for a directive

Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall be empowered to adopt implementing acts establishing the standard format and timeline for the transmission of the information used in the preparation of the evaluation reports referred to in Article 25. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).

Amendment 234

Proposal for a directive

Article 25 – title

Text proposed by the Commission

Amendment

Evaluation **and** reporting

Evaluation, reporting **and guidelines**

Amendment 235

Proposal for a directive

Article 25 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall by [OP – please insert the date - two years after the transposition period is over], submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.

1. The Commission shall by [OP – please insert the date - two years after the transposition period is over] **and every two years thereafter**, submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive, **and providing recommendations to Member States**. Member States shall provide the Commission with the necessary information for the preparation of that report, **including the statistical data**

referred to in Article 21 of this Directive, the qualitative and quantitative data relative to the indicators of performance referred to in point 1.4.4 of the legislative financial statement that forms part of the Commission proposal for this Directive, and any other information that may be deemed relevant.

Amendment 236

Proposal for a directive Article 25 – paragraph 2

Text proposed by the Commission

2. Every two years as of [OP – please insert the date one year after the transposition period is over], Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with Articles 15 to 17, 19 and 20.

Amendment

2. Every two years as of [OP – please insert the date one year after the transposition period is over], Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with Articles 3 to 20.

Amendment 237

Proposal for a directive Article 25 – paragraph 3

Text proposed by the Commission

3. By [OP – please insert the date - five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.

Amendment

3. By [OP – please insert the date - five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report *including the statistical data referred to in Article 21 of this Directive, and the qualitative and quantitative data relative to the indicators of performance referred to in point 1.4.4 of the legislative financial statement that forms part of the Commission proposal for this Directive,*

and any other information that may be deemed relevant to ensure compliance with paragraph 1 of this Article, such as information on the environmental impact of each of the offences described in Article 3 of this Directive. The Commission shall ensure that a regular update of criminal offences as laid down in Article 3 is carried out.

Amendment 238

Proposal for a directive Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *The Commission shall effectively coordinate the reporting by Member States of statistical data referred to in Article 21 and of any information necessary for the preparation of the evaluation reports referred to in paragraphs 1, 2 and 3 of this Article.*

Amendment 239

Proposal for a directive Article 25 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *By one year after the entry into force of this Directive, the Commission shall present a report on homogeneous and harmonised classification of environmental crimes prepared with the Member States and a regulatory classification of sanctions adapted to provide guidance to national competent authorities, prosecutors and judges in the application of the sanctions provided for in this Directive.*

Amendment 240

Proposal for a directive

Article 25 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. By ... [OJ: please insert the date one year after the entry into force of this Directive], notwithstanding Article 119 of Regulation 2017/1939^{1a}, the Commission shall produce a report on extending the powers of the European Public Prosecutor's Office provided for in Article 86 of the Treaty on the Functioning of the European Union to include serious environmental crimes that are detrimental to the interest of the Union. The European Public Prosecutor's Office shall thus be empowered to request independent investigations and to initiate legal proceedings in respect of environmental damage and environmental crime on a European scale. The report shall assess how the powers of the European Public Prosecutor's Office should be extended to serious environmental crimes. The report shall be accompanied by a legislative proposal for a revision of Directive 2017/1371 to include environmental crimes to the criminal offences covered by the Directive and an extension of the EPPO's mandate to cover serious environmental crimes.

^{1a} Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1–71)

Amendment 241

Proposal for a directive

Article 25 – paragraph 3 d (new)

Text proposed by the Commission

Amendment

3d. By ... [OJ: please insert the date one year after the entry into force of this Directive], the Commission shall present guidelines to clarify the procedural framework for the participation of members of the public in the criminal prosecution of environmental offences, including the definition of easily accessible admissibility criteria.

Amendment 242

Proposal for a directive Article 25 – paragraph 3 e (new)

Text proposed by the Commission

Amendment

3e. By ... [OJ: please insert the date two years after the entry into force of this Directive], the Commission shall present a report on how environmental crime negatively impacts upon the environment, the One Health approach and the exceedance of planetary boundaries.

Amendment 243

Proposal for a directive Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27a

**Amendments to Directive (EU) 2017/1371
of the European Parliament and of the
Council on the fight against fraud to the
Union's financial interests by means of
criminal law**

**Directive (EU) 2017/1371 is amended as
follows:**

**(1) the title is replaced by the
following:**

“Directive 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests and cross-border protection of the environment by means of criminal law”;

(2) in Article 18, the following paragraph is inserted:

“By 31 December 2024 the Commission shall present a legislative proposal on inclusion of environmental crimes in the criminal offences covered by this Directive and on the creation of the office of the Green European Public Prosecutor.”

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Protection of the environment through criminal law and replacing Directive 2008/99/EC
References	COM(2021)0851 – C9-0466/2021 – 2021/0422(COD)
Committee responsible Date announced in plenary	JURI 27.1.2022
Opinion by Date announced in plenary	ENVI 27.1.2022
Rapporteur for the opinion Date appointed	Sirpa Pietikäinen 11.3.2022
Discussed in committee	2.6.2022
Date adopted	25.10.2022
Result of final vote	+: 43 –: 37 0: 1
Members present for the final vote	Maria Arena, Bartosz Arłukowicz, Marek Paweł Balt, Traian Băsescu, Hildegard Bentele, Sergio Berlato, Alexander Bernhuber, Malin Björk, Delara Burkhardt, Pascal Canfin, Mohammed Chahim, Tudor Ciuhodaru, Nathalie Colin-Oesterlé, Esther de Lange, Christian Doleschal, Cyrus Engerer, Agnès Evren, Pietro Fiocchi, Hélène Fritzon, Malte Gallée, Gianna Gancia, Andreas Glück, Catherine Griset, Teuvo Hakkarainen, Anja Hazekamp, Martin Hojsík, Jan Huitema, Yannick Jadot, Petros Kokkalis, Ewa Kopacz, Joanna Kopcińska, Peter Liese, César Luena, Marian-Jean Marinescu, Fulvio Martusciello, Marina Mesure, Tilly Metz, Silvia Modig, Ljudmila Novak, Grace O’Sullivan, Jutta Paulus, Jessica Polfjärd, Luisa Regimenti, Frédérique Ries, María Soraya Rodríguez Ramos, Sándor Rónai, Silvia Sardone, Ivan Vilibor Sinčić, Maria Spyraکی, Nicolae Ștefănuță, Nils Torvalds, Edina Tóth, Véronique Trillet-Lenoir, Alexandr Vondra, Mick Wallace, Pernille Weiss, Emma Wiesner, Michal Wiezik, Tiemo Wölken
Substitutes present for the final vote	Matteo Adinolfi, Antoni Comín i Oliveres, Matthias Ecke, Romana Jerković, Ska Keller, Marlene Mortler, Robert Roos, Marcos Ros Sempere, Róza Thun und Hohenstein, István Ujhelyi, Sarah Wiener
Substitutes under Rule 209(7) present for the final vote	Christine Anderson, Damien Carême, Lena Düpont, Alicia Homs Ginell, Virginie Joron, Leopoldo López Gil, Theresa Muigg, Rob Rooker, Dorien Rookmaker, Caroline Roose, Mounir Satouri

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

43	+
NI	Antoni Comín i Oliveres
PPE	Leopoldo López Gil
Renew	Pascal Canfin, Martin Hojsík, Frédérique Ries, María Soraya Rodríguez Ramos, Nicolae Ștefănuță, Róza Thun und Hohenstein, Nils Torvalds, Véronique Trillet-Lenoir, Michał Wiezik
S&D	Maria Arena, Marek Paweł Balt, Delara Burkhardt, Mohammed Chahim, Tudor Ciuhodaru, Matthias Ecke, Cyrus Engerer, Hélène Fritzon, Alicia Homs Ginel, Romana Jerković, César Luena, Theresa Muigg, Marcos Ros Sempere, Sándor Rónai, István Ujhelyi, Tiemo Wölken
The Left	Malin Björk, Anja Hazekamp, Petros Kokkalis, Marina Mesure, Silvia Modig, Mick Wallace
Verts/ALE	Damien Carême, Malte Gallée, Yannick Jadot, Ska Keller, Tilly Metz, Grace O'Sullivan, Jutta Paulus, Caroline Roose, Mounir Satouri, Sarah Wiener

37	-
ECR	Sergio Berlato, Pietro Fiocchi, Joanna Kopcińska, Rob Rooken, Dorien Rookmaker, Robert Roos, Alexandr Vondra
ID	Matteo Adinolfi, Christine Anderson, Gianna Gancia, Catherine Griset, Teuvo Hakkarainen, Virginie Joron, Silvia Sardone
NI	Edina Tóth
PPE	Bartosz Arłukowicz, Traian Băsescu, Hildegard Bentele, Alexander Bernhuber, Nathalie Colin-Oesterlé, Esther de Lange, Christian Doleschal, Lena Düpont, Agnès Evren, Ewa Kopacz, Peter Liese, Marian-Jean Marinescu, Fulvio Martusciello, Marlene Mortler, Ljudmila Novak, Jessica Polfjård, Luisa Regimenti, Maria Spyraiki, Pernille Weiss
Renew	Andreas Glück, Jan Huitema, Emma Wiesner

1	0
NI	Ivan Vilibor Sinčić

Key to symbols:

+ : in favour

- : against

0 : abstention