



2021/0422(COD)

6.2.2023

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

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
(COM(2021)0851 – C9-0466/2021 – 2021/0422(COD))

Rapporteur for opinion: Saskia Bricmont

SHORT JUSTIFICATION

According to the UNEP and INTERPOL, environmental crimes are rising and have become the fourth largest criminal sector in the world putting at risk the environment, the biodiversity and the climate. Environmental criminality is growing at a rate of between 5 % and 7 % per year and growing two to three times faster than the global economy, and is now as lucrative as illegal drug trafficking. This type of criminality deprives countries and populations from billions of euros of economic revenues annually, threatens fundamental rights, fuels insecurity and organized crime, and puts social structures at risk.

The current Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law aims primarily at improving environmental protection by means of harmonized criminal legislation. However, many shortcomings and loopholes have been identified, i.e. limited scope, inadequacy of sanctions, low levels of fines; lack of implementation and cooperation between Member States; lack of access to justice; lack of statistical data; lack of specialized jurisdictions, etc.

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

The Rapporteur proposes the **inclusion of general and autonomous definitions of environmental offenses**. Despite the growing number of environmental offenses, a harmonized definition of environmental crimes does not yet exist either at the worldwide or at European and national level. Instead, the current system relies upon a list of secondary legislation, leaving out large parts of EU environmental law. Therefore, introducing autonomous crimes would enable criminal liability for serious cases of environmental harm and give rights to the nature.

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

Given the high financial impact of environmental offenses, their potential link with other serious financial crimes, as well as their cross-border nature, the European Public prosecutor would be best placed to exert its competences on the serious environmental crimes with a cross-border dimension. The Rapporteur recommends that the Commission should assess the possibility to **extend the mandate of the EPPO**, to include serious environmental crimes.

To investigate and prosecute environmental crime effectively, the Rapporteur suggests the development of **specialized jurisdictions** at national level that would be able to effectively detect, investigate, and prosecute environmental crime, as well as to cooperate with other

Member States authorities, including through the sharing of good practices and expertise. Such bodies should be provided with adequate financial and human resources.

Acknowledging the crucial role played by **civil society and environmental defenders**, the Rapporteur proposes strengthening their protection, including against Strategic lawsuits against public participation as well as their capacity to stand in legal proceedings. To facilitate reporting of crime, contact points should be created at EU and national level.

Environmental crimes are very lucrative for perpetrators, the Rapporteur proposes several provisions in order to strengthen **financial reparation** obligation but also on confiscation of related assets.

In order to guarantee **compensation to victims** of environmental crimes and ensure effective ecological and environmental restoration, the Rapporteur proposes that Member States should establish a dedicated national fund to finance actions aimed at these purposes.

As **public authorities** have a duty to set an example, there is no reason to exclude them from the obligations of this Directive, which is why the Rapporteur includes public authorities among the entities covered by the provisions of the Environmental Crime Directive.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs 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 2

Text proposed by the Commission

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

Amendment

(2) The Union continues to be concerned with the rise in environmental criminal offences and their effects, which undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly extending beyond the borders of the Member States in which the offences are committed. ***In just a few decades, environmental crime has become the fourth-largest criminal activity in the world, growing at a rate of between 5% and 7% per year and growing two to three times faster than the global economy, and is now as lucrative as illegal drug trafficking.*** Such offences

pose a threat to the environment, *climate, human health as well as to human rights and fundamental freedoms*, and therefore call for an appropriate, effective *and timely* response. *The improvement of cross-border cooperation that works in a more systematic manner between competent national and European authorities would help to better implement European environmental criminal law.*

Amendment 2

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

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

(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. The reliance on administrative sanctions by Member States has, to date, proven to be insufficient to ensure compliance with the rules on* 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.

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 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

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

Amendment 4

Proposal for a directive Recital 4

Text proposed by the Commission

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 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.

(4) The effective ***detection***, 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 ***and penalties*** should be strengthened ***and reflect the nature and gravity of the damage caused*** in order to enhance their deterrent ***and reparatory*** effect, as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.

Amendment 5

Proposal for a directive Recital 4 a (new)

(4 a) While the recognition of the crime of ecocide is currently being discussed in several national parliaments around the world and in the EU, the EU should seize this issue to remain a world leader in environmental protection legislation and to ensure harmonised definition and sanctions. Member States should therefore introduce, in their national legislation, a crime of ecocide, which should be considered a criminal offence for the purposes of this Directive and be defined as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused. This specific crime makes it possible to criminalise the most serious damages to the environment and adopt sanctions according to the gravity of the harm to the environment. The EU should ensure accountability and liability in the fight against environmental crime and to make it a strategic political priority in international judicial cooperation and by promoting the enlargement of the scope of the International Criminal Court to recognise criminal acts that amount to ecocide under the Rome Statute.

Amendment 6

Proposal for a directive

Recital 6

(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

(6) Member States should provide for criminal penalties in their national legislation in respect of serious infringements, ***by natural or legal persons***, of provisions of Union law concerning protection of the environment. In the framework of the common fisheries policy,

comprehensive set of rules for control and 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

Union law provides for comprehensive set of rules for control and 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.

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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).

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 7

Proposal for a directive Recital 7

Text proposed by the Commission

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally ***and, in certain cases, also*** when committed with serious negligence. Illegal conduct that causes death or serious injury of persons, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly harmful to the environment constitutes a criminal offence when committed with serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

Amendment

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally ***or*** when committed ***at least*** with serious negligence. Illegal conduct that causes death or serious injury of persons, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly harmful to the environment ***or human health*** constitutes a criminal offence when committed with ***at least*** serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

Amendment 8

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

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 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.

an authorisation by a competent authority in a Member State if such authorisation ***was illegal***, 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 9

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 services provided by natural resources. ***Similarly, environmental damage should also be understood in a wide sense, as comprising not only the market value of the damaged natural resources, but also the ecological and societal values of the services provided by those natural resources.***

Amendment 10

Proposal for a directive Recital 10

Text proposed by the Commission

(10) The acceleration of climate change, biodiversity loss and environmental

Amendment

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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.

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 ***automatically*** 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. ***In such cases, the amendment of the Directive should be limited to the incorporation of new criminal offences and only concern Article 3 and related provisions of the Directive in order to reflect such new incorporation.***

Amendment 11

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Qualitative and quantitative thresholds used to define environmental criminal offences should be clarified by providing a non-exhaustive list of circumstances which should be taken into account when assessing such thresholds by authorities which investigate, prosecute and adjudicate offences. This should promote the coherent application of the Directive and a more effective fight against environmental crimes as well as provide for legal certainty. However, such thresholds or their application should not make the investigation, prosecution or adjudication of criminal offences

Amendment

(11) Qualitative and quantitative thresholds used to define environmental criminal offences should be clarified by providing a non-exhaustive list of circumstances which should be taken into account when assessing such thresholds by authorities which investigate, prosecute and adjudicate offences. This should promote the coherent application of the Directive and a more effective fight against environmental crimes as well as provide for legal certainty. However, such thresholds or their application should not make the investigation, prosecution or adjudication of criminal offences

excessively difficult.

excessively difficult. *In order to ensure a consistent and coherent approach among Member States, the Commission should issue guidelines to facilitate, in accordance with national and European environmental law, a harmonised understanding across Member States of the qualitative and quantitative thresholds to assess the nature and entity of the damage for the purposes of the investigation, prosecution and adjudication of offences. The guidelines should be science-based, produced in cooperation with relevant experts and other relevant stakeholders and may include a summary of existing relevant case law, real-life examples or common benchmarks.*

Amendment 12

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

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. *Environmental crimes are often committed by organised crime groups, which operate across the EU's internal and external borders. The involvement of organised crime groups in the environmental offence, or the commission of an offence for the benefit of a group of such kind, should be regarded as aggravating circumstances.* 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

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.

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. ***Considering the role that public authorities should exert in preventing and addressing unlawful conducts, the commission of environmental crimes by public officials when performing their duties, or their involvement in these crimes, should be taken into account as aggravating factor when determining the appropriate level of sanctioning.***

Amendment 13

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***

Amendment

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, ***in the definition and application of sanctions Member States should also take into account the financial benefits accrued by committing the offence, the level of the damage caused, as well as the possibility and costs involved in reinstatement.*** 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

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.

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 *or finance its reinstatement within a reasonable timeframe, where such reinstatement is possible, compensation for the damage caused, obligation to finance measures that contribute to the conservation and/or preservation of the environment*, exclusion from access to public funding, including tender procedures, grants, concessions *and licenses*, and withdrawal of permits and authorisations. *When offences are committed by public officials, sanctions should also include disqualification from functions and bans on running for elected or public office.* This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases. *However, given that the main victim of the offences referred to in this Directive is the environment as such, the use of sanctions that lead to the reinstatement of the environment should be encouraged whenever possible.*

Amendment 14

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) In order to ensure the deterrent as well as educational effect of sanctions, it is important to first ensure the identification, tracing, seizing, freezing and definitive confiscation of all the proceeds from and instrumentalities used or intended to be used in the commission or contribution to the commission of environmental offences. Member States should ensure that such proceeds or instrumentalities can be identified, traced, frozen, seized and confiscated even when

their ownership has been changed on purpose. Where live animals are subject to seizing, Member States should ensure that their competent authorities are able to adopt interim measures regarding their placement pending the investigation, prosecution or adjudication of the offence with the aim of ensuring adequate care for them.

Amendment 15

Proposal for a directive Recital 15

Text proposed by the Commission

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

Amendment

(15) Legal persons should also be held criminally liable for environmental criminal offences according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanctions types and levels *which have an equivalent effect as those* 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. *Considering the importance of due diligence to prevent and mitigate the potential adverse impact of corporate activities on the environment and human rights, the violation of relevant legal, administrative or judicial obligations should be included among the aggravating circumstances of an environmental offence.*

Amendment 16

Proposal for a directive Recital 16

Text proposed by the Commission

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

Amendment

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

Amendment 17

**Proposal for a directive
Recital 17**

Text proposed by the Commission

(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 gains should be confiscated.

Amendment

(17) Where the crimes are of a continuing nature ***or could have substantial or even irreversible consequences on the environment***, they should be brought to an end as soon as possible. Where offenders have made financial gains, such gains should be confiscated. ***Member States should take the necessary measures to ensure that confiscated proceeds derived from and instrumentalities of the environmental crime will address the consequences of***

those crimes and be used to finance and cover the costs associated to environmental restoration and to damage compensation and reparation.

Amendment 18

Proposal for a directive Recital 17 a (new)

Text proposed by the Commission

Amendment

(17 a) In order to guarantee compensation to victims of environmental crimes and ensure effective ecological and environmental restoration, Member States should establish a dedicated national fund to finance actions aimed at these purposes. Confiscated proceeds derived from the offence and instrumentalities used or intended to be used in the commission or contribution to the commission of the offence should be allocated, where applicable, to that fund.

Amendment 19

Proposal for a directive Recital 17 b (new)

Text proposed by the Commission

Amendment

(17 b) Member States should lay down rules providing for the immediate cessation or prevention, on a precautionary basis, of unlawful conducts to avert the occurrence of an environmental damage, to mitigate such damage or to avoid further negative consequences.

Amendment 20

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 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. ***Limitations periods for investigation, prosecution, trial and judicial adjudication of environmental crimes should reflect the gravity of the offence. For the investigation, prosecution, trial and adjudication of the ecocide offences there should not be limitation period. Given that some types of environmental crimes are detected long after they were committed, the limitation periods should commence from the time of the detection of the offence where the offence was concealed or discovered at a later moment than that of its commission.***

Amendment 21

**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 and dissuasive*** administrative sanctions and other measures in national law for breaches established in Union environmental legislation.

Amendment 22

**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. 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 ***principle*** of ne bis in idem.

Amendment 23

**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 to address different types of criminal behaviour in a tailored and effective manner. ***The approximation of sanction levels across the EU should promote more effective fight against environmental crimes.***

Amendment 24

**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,

Amendment

(23) Given, in particular, the mobility of perpetrators of illegal ***conducts*** covered by this Directive ***and proceeds derived from their criminal activities***, together with the cross-border nature of offences and the

Member States should establish jurisdiction in order to *counter such conduct* effectively.

possibility of cross-border investigations *required to combat such crimes*, Member States should establish jurisdiction in order to *enable the competent authorities to investigate, prosecute and adjudicate such conducts* effectively, *and take the necessary measures to extend their jurisdiction in specific circumstances. In the event of a conflict of jurisdiction among two or more Member States, and pending the resolution of the conflict, Member States should still adopt all the necessary precautionary measures to prevent a damage to the environment or the further deterioration of an existing damage affecting their territory. When investigating or prosecuting the offences covered by this Directive, the competent authorities of the different Member States concerned should establish contacts, coordinate actions, exchange information, and use appropriate judicial cooperation instruments.*

Amendment 25

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

Amendment

(24) Environmental criminal offences harm nature and society. By reporting breaches of Union environmental law, people *and 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

effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the Council²⁵ .

persons, ***both natural and legal***, 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).

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 26

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) The protection of the environment is also carried out by environmental defenders, who play a critical role in mitigating the effects of climate change and fighting against biodiversity loss. Environmental defenders are also on the frontline of the consequences of environmental crime worldwide, including in the EU. They are very often subject to threats, intimidation, harassment, persecution, violence or even murder, and should benefit from adequate and effective protection. Environmental defenders, persons reporting irregularities as well as civil society organisations may also be subject to abusive lawsuits and threats, and should be protected from such abusive practices, also known as "Strategic lawsuits against public participation".

Amendment 27

Proposal for a directive Recital 24 b (new)

(24 b) Member States should also establish specific protection measures for persons reporting criminal offences committed in the framework of a criminal organisation or involving such an organisation.

Amendment 28

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. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings. ***Reporting of potential environmental criminal offences should be facilitated via an online platform. The Commission should create a reporting system allowing natural or legal persons across the EU to denounce environmental offences anonymously, and ensure that there is an appropriate follow up to serious allegations of criminal offences by the concerned Member State.***

Amendment 29

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

(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 ***and also have the right to bring actions before the courts aimed at obtaining ecological and environmental restoration.***

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 30

Proposal for a directive Recital 28

Text proposed by the Commission

(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.

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 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.

Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate environmental crime. To maximise the professionalism and effectiveness of enforcement chain, Member States should also consider ***establishing and*** assigning specialised investigation units ***or departments***, 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 ***as well as the necessary resources to perform their functions. Effective and swift cooperation mechanisms should be established across the whole law enforcement chain.***

Amendment 31

Proposal for a directive Recital 29

Text proposed by the Commission

(29) To ensure successful enforcement, Member States should make available effective investigative tools for environmental offences such as those which exist in their national law for combating organised crime or other serious crimes. These tools should include among others the interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the offences under investigation should justify the use of these investigative tools. ***The right to the protection of personal data***

Amendment

(29) To ensure successful enforcement, Member States should make available effective investigative tools for environmental offences such as those which exist in their national law for combating organised crime or other serious crimes ***with cross-border dimension.*** These tools should include among others the interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union ***including with the right to the respect for private and family life, and the protection of personal data.*** In accordance with national law, the nature and gravity of the offences under

must be respected.

investigation should justify the use of these investigative tools.

Amendment 32

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, ***exchanges of good practices*** and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. ***Member States should also ensure and strengthen assistance, coordination and cooperation at strategic and operational level between each other as well as at EU level.*** 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 33

Proposal for a directive Recital 30 a (new)

Text proposed by the Commission

Amendment

(30 a) Given the high financial impact of environmental offences, their potential link with other serious financial crimes, as well as their cross-border nature, the European Public Prosecutor's Office, with its own powers and authority to coordinate investigations and

prosecutions in cross-border cases, is best placed to exert its competences on the most serious environmental crimes with a cross-border dimension. To this end, the Commission should present a report assessing the possibility and modalities to extend the mandate of the EPPO, as provided for in Article 86 TFEU, to include serious environmental crimes that are detrimental to the interests of the Union or affect the consistent application of EU policies related to the protection of the environment.

Amendment 34

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 *and keep up-to-date* 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 35

Proposal for a directive Article 1 – paragraph 1 Directive 2008/99/EC Article 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 ***to fight against environmental crime, defining*** criminal offences and sanctions, ***and facilitating the work of and cooperation among law enforcement and prosecuting authorities*** in order to protect the environment more effectively.

Amendment 36

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Amendment 37

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point b

Directive 2008/99/EC

Text proposed by the Commission

Amendment

(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).

(b) a law, an administrative ***act, a*** 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 38

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Amendment 39

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Amendment 40

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Amendment 41

Proposal for a directive

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

Text proposed by the Commission

Amendment

(1 e) ‘environment’ means the Earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere as well as

outer space;

Amendment 42

Proposal for a directive

Article 2 – paragraph 1 – point 1 – paragraph 1

Directive 2008/99/EC

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**, obtained fraudulently or by corruption, extortion or coercion;

Amendment 43

Proposal for a directive

Article 2 – paragraph 1 – point 3

Directive 2008/99/EC

Text proposed by the Commission

(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;**

Amendment

(3) ‘legal person’ means any legal entity having such status under the applicable national law, **including, where it is provided for under national law,** public bodies exercising **public powers or** authority;

Amendment 44

Proposal for a directive

Article 2 – paragraph 1 – point 4

Directive 2008/99/EC

Text proposed by the Commission

(4) ‘public concerned’ means the persons affected or likely to be affected by the offences referred to in Articles 3 or 4. For the purposes of this definition, persons having a sufficient interest or maintaining the impairment of a right as well as non-governmental organisations promoting the

Amendment

(4) ‘public concerned’ means the persons, **or groups of persons including local communities,** affected or likely to be affected by the offences referred to in Articles 3, **3(1a)** or 4, as well as non-governmental organisations promoting the protection of the environment. *For the*

protection of the environment and meeting any proportionate requirements under national law shall be deemed to have an interest;

*purposes of this definition, **Member States shall ensure that members of the public concerned having a sufficient interest or maintaining the impairment of a right** and meeting any proportionate requirements under national law shall be deemed to have an interest;*

Amendment 45

Proposal for a directive

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

Directive 2008/99/EC

Text proposed by the Commission

Amendment

(5 a) ‘illegal logging’ means any logging which breaks rules and legislation in force 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 on EU law in sphere of nature protection or on a law implementing EU strategic initiative in the sphere of nature protection;

Amendment 46

Proposal for a directive

Article 3 – paragraph -1 (new)

Directive 2008/99/EC

Text proposed by the Commission

Amendment

*-1. **Member States shall ensure that, when committed intentionally or with serious negligence, unlawful acts or omissions by natural or legal persons that cause or are likely to cause a substantial damage to the environment, constitute a criminal offence, insofar as those acts or omissions are not covered by paragraphs 1 and 1a.***

Amendment 47

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 at least with serious negligence***:

Amendment 48

Proposal for a directive

Article 3 – paragraph 1 – point a

Article 3

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 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 49

Proposal for a directive

Article 3 – paragraph 1 – point b

Article 3

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

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 serious injury to any person or substantial damage to air, water

result of the product's use on a larger scale;

or soil quality, or to animals or plants as a result of the product's use on a larger scale;

Amendment 50

Proposal for a directive

Article 3 – paragraph 1 – point c – introductory part

Article 3

Text proposed by the Commission

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

Amendment

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

Amendment 51

Proposal for a directive

Article 3 – paragraph 1 – point c – paragraph 1

Text proposed by the Commission

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;

Amendment

and it causes or is likely to cause death **or substantial harm to human health**, 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 52

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 53

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**;

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

(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).

Amendment 54

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, **substantial harm to human health**, 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 55

Proposal for a directive

Article 3 – paragraph 1 – point f

Text proposed by the Commission

(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council⁴⁰ **when such shipment is undertaken in a non-**

Amendment

(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council⁴⁰, whether executed in a single shipment or in several

negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;

⁴⁰ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

shipments which appear to be linked;

⁴⁰ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

Amendment 56

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 ***pollution referred to in Article 3(8) of the Directive 2008/56/EC*** or 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 ***or the marine environment***, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water ***or the marine environment***;

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 57

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 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).

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, **substantial harm to human health** 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).

Amendment 58

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 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 ***or leads to a deterioration of the Status of the Water Bodies as defined in the last River Basin Management Plans, in accordance with the statements of the Annex V of the Directive 2000/60/EC;***

Amendment 59

Proposal for a directive

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

Text proposed by the Commission

Amendment

(k a) committing of a serious infringement within the meaning of article 90 of Regulation (EC) No 1224/2009 of the European Parliament and of the Council;

Amendment 60

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

Amendment

(l) the killing, destruction, taking of, possession, sale or offering for sale, ***including online***, 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

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).

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 61

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

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

Amendment 62

Proposal for a directive

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

Text proposed by the Commission

Amendment

(m a) the use, for hunting or fishing, of poison, explosive means or other instruments or gear that is similarly destructive or non-selective with regard to wildlife, in coherence with the provisions of Article 15 of and Annex VI to the Habitats Directive;

Amendment 63

Proposal for a directive

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

Text proposed by the Commission

Amendment

(n a) unauthorised development, construction or building work on land intended for roads, green areas, public property or sites which are legally or administratively recognised as having landscape, ecological, artistic, historical or cultural value, or which for the same reasons have been designated as specially protected, in particular natural and semi-natural areas included in the Natura 2000 network and protected under EU law;

Amendment 64

Proposal for a directive

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

Text proposed by the Commission

Amendment

(n b) starting a forest fire;

Amendment 65

Proposal for a directive

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

Text proposed by the Commission

Amendment

(n c) illegal logging, as defined in Article 2(5a);

Amendment 66

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, **or the significant disturbance of species for which the habitat has been designated** within the meaning of Article 6(2) of the Directive 92/43/EEC:

Amendment 67

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, **substantial harm to human health**, 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 68

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Member States shall ensure that

the crime of ecocide is considered a serious criminal offence for the purposes of this Directive, and be defined as unlawful or wanton acts or omission committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused.

Amendment 69

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

Amendment

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

deleted

Amendment 70

Proposal for a directive Article 3 – paragraph 3 – introductory part

Text proposed by the Commission

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):

3. Member States shall ensure that their national legislation specifies that *one or more of* 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 71

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

Text proposed by the Commission

Amendment

(a a) the estimated cost of reinstatement of the environmental damage;

Amendment 72

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

Text proposed by the Commission

Amendment

(b) whether the damage **is** long-lasting, medium term or short term;

(b) whether the damage **or its effects are** long-lasting, medium term or short term;

Amendment 73

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

Text proposed by the Commission

Amendment

(e) reversibility of the damage.

(e) **the extent of** reversibility of the damage.

Amendment 74

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

Text proposed by the Commission

Amendment

(e a) the monetary value of the damage to the affected ecosystem evaluated, inter alia, on the basis of its ecological, environmental and social impact;

Amendment 75

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

Text proposed by the Commission

Amendment

**(e b) the amount of financial benefits gained by the offender by committing the offence, including cost of compliance;
(AM 55 Rapporteur, AM 281 Renew)**

Amendment 76

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

Text proposed by the Commission

Amendment

(e c) impact on conservation status and trend of the species, population or habitat affected;

Amendment 77

Proposal for a directive
Article 3 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

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)**:

4. Member States shall ensure that their national legislation specifies that **one or more of** 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, points (a) to (e), (i), (j), (k), **(p) and (ra)**:

Amendment 78

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 or complied with, ***or is carried out under an authorisation that is illegal, obtained fraudulently or by corruption, extortion or coercion;***

Amendment 79

Proposal for a directive

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

Text proposed by the Commission

Amendment

(c a) the impact on human health and other human rights;

Amendment 80

Proposal for a directive

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

Text proposed by the Commission

Amendment

(c b) the activity constitutes a violation of due diligence obligations;

Amendment 81

Proposal for a directive

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

Text proposed by the Commission

Amendment

(c c) the financial benefits gained by the offender by committing the offence, including cost of compliance.

Amendment 82

Proposal for a directive

Article 3 – paragraph 5 – introductory part

Text proposed by the Commission

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):

Amendment

5. Member States shall ensure that their national legislation specifies that ***one or more of*** the following elements shall be taken into account, ***where relevant***, when assessing whether the ***quality and quantity of the impact of the damage*** 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 83

Proposal for a directive

Article 3 – paragraph 5 – point a

Text proposed by the Commission

(a) the number of items subject to the offence;

Amendment

(a) the ***volume or*** number of items subject to the offence;

Amendment 84

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 ***protection or*** conservation status of the fauna or flora species concerned, ***including in the habitat concerned by the damage***;

Amendment 85

Proposal for a directive

Article 3 – paragraph 5 – point d

Text proposed by the Commission

(d) the cost of **restoration of** environmental damage.

Amendment

(d) the **estimated** cost of **reinstatement of the** environmental damage;

Amendment 86

Proposal for a directive

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

Text proposed by the Commission

Amendment

(d a) the monetary value of the damage to the affected ecosystem evaluated, inter alia, on the basis of its ecological, environmental and social impact;

Amendment 87

Proposal for a directive

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

Text proposed by the Commission

Amendment

(d b) the financial benefit gained by the offender by committing the offence, including cost of compliance.

Amendment 88

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 3(1a)** are punishable as criminal offences.

Amendment 89

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) ***and Article 3(1a)***, when committed intentionally is punishable as a criminal offence.

Amendment 90

Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 91

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person. ***The offence referred to in Article 3(1a) shall also be punishable, in all circumstances, by a maximum term of imprisonment of at least ten years.***

Amendment 92

Proposal for a directive Article 5 – paragraph 3

Text proposed by the Commission

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.

Amendment

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

Amendment 93

Proposal for a directive Article 5 – paragraph 4

Text proposed by the Commission

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.

Amendment

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

Amendment 94

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

Text proposed by the Commission

5. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional sanctions or measures which shall include:

Amendment

5. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3, **3(1a)** and 4 may be subject to additional sanctions or measures which shall include:

Amendment 95

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

Text proposed by the Commission

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

Amendment

(a) obligation to reinstate the environment within a **reasonable** time period, **covering the cost of reinstatement, where such reinstatement is possible, and to compensate for the damage caused;**

Amendment 96

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

Text proposed by the Commission

(b) fines;

Amendment

(b) fines **that are proportionate to the financial benefits accrued by the offender by committing the offence or to the damage caused;**

Amendment 97

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

Text proposed by the Commission

Amendment

(b a) obligation to engage in or finance activities that contribute to the conservation and/or preservation of the environment;

Amendment 98

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

Text proposed by the Commission

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

Amendment

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

licences;

Amendment 99

Proposal for a directive

Article 5 – paragraph 5 – point d

Text proposed by the Commission

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

Amendment

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

Amendment 100

Proposal for a directive

Article 5 – paragraph 5 – point f

Text proposed by the Commission

(f) temporary bans on running for elected or public office;

Amendment

(f) temporary bans on running for elected or public office;

Amendment 101

Proposal for a directive

Article 5 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. When the conducts referred to under Article 3(1) points (e), (f), (l), (m) and (n), are limited to a negligible quantity, it shall be possible for Member States to apply effective, proportionate and dissuasive administrative sanctions.

Amendment 102

Proposal for a directive

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

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:

Amendment

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

Amendment 103

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 104

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 105

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) **and Article 6(2)** is punishable by effective, proportionate and dissuasive sanctions. ***The level of sanctions shall reflect the degree of severity and duration of the environmental consequences, and their impact on human health.***

Amendment 106

Proposal for a directive
Article 7 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 6(1) for the offences referred to in Articles 3 and 4 shall include:

Amendment

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 6(1) **and Article 6(2)** for the offences referred to in Articles 3, **3(1a)** and 4 shall include:

Amendment 107

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

Text proposed by the Commission

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

Amendment

(b) the obligation to reinstate the environment within a **reasonable** period ***covering the cost of reinstatement, where such reinstatement is possible, and to compensate for the damage caused;***

Amendment 108

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

Text proposed by the Commission

Amendment

(b a) obligation to finance measures that contribute to the conservation and/or preservation of the environment;

Amendment 109

Proposal for a directive
Article 7 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

(c) **temporary or permanent** exclusion from entitlement to public benefits or aid;

Amendment 110

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

Text proposed by the Commission

Amendment

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

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

Amendment 111

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 **or to abide by their obligation to have in place** due diligence schemes for enhancing compliance with environmental standards;

Amendment 112

Proposal for a directive
Article 7 – paragraph 2 – point k

Text proposed by the Commission

(k) publication of the judicial decision relating to the conviction or any sanctions or measures applied.

Amendment

(k) publication of the judicial decision relating to the conviction or any sanctions or measures applied ***and EU-wide publication of the judicial decision with cross-border relevance;***

Amendment 113

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

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.

Amendment

deleted

Amendment 114

Proposal for a directive
Article 7 – paragraph 4

Text proposed by the Commission

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

Amendment

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 ***average*** worldwide turnover of the legal person [/undertaking] in the ***three business years*** preceding the ***detection of the offence***.

Amendment 115

Proposal for a directive
Article 7 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Where the worldwide turnover as referred to in paragraph 4 is negative, equals to zero or is inexplicably low, the maximum limit of the fine shall not be less than an amount corresponding to EUR [100] million.

Amendment 116

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 117

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

Text proposed by the Commission

Amendment

6 a. Member States shall take the necessary measures to ensure that the maximum limit of fines paid by the legal person committing the environmental offences referred to in Article 3(1a) shall be between 12 and 25% of the total average worldwide turnover of the legal person in the three business years preceding the detection of the offence.

Amendment 118

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

Text proposed by the Commission

Amendment

6 b. Member States shall take the necessary measures to make sure that the level of the fines referred to in paragraphs 4 and 6a is gradually increased for repeated infringements.

Amendment 119

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

Text proposed by the Commission

Amendment

6 c. When the conducts referred to under Article 3(1) points (e), (f), (l), (m) and (n), are limited to a negligible quantity, it shall be possible for Member States to apply effective, proportionate and dissuasive administrative sanctions.

Amendment 120

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

Text proposed by the Commission

Amendment

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

(a) the offence caused the death of, or serious injury to, a person, **or negatively affected public health. The number of victims shall be taken into account;**

Amendment 121

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 ***a habitat, species of wild fauna or flora covered by Council Regulation (EC) No 338/9751, Council Directive 92/43/EEC and Directive 2009/147/EC of the European Parliament and of the Council or to*** an ecosystem;

Amendment 122

Proposal for a directive

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

Text proposed by the Commission

Amendment

(b a) the offence or the damage have a cross-border dimension;

Amendment 123

Proposal for a directive

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

Text proposed by the Commission

Amendment

(b b) the offence caused destruction or damage to a site of critical infrastructure or a site of cultural heritage;

Amendment 124

Proposal for a directive

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

Text proposed by the Commission

Amendment

(b c) the offence was committed in an area of conservation or protection at national, European or international level, such as Natura 2000 area, or in an area where the offence is likely to have a

significant effect in view its conservation objectives;

Amendment 125

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

Text proposed by the Commission

(c) the offence was committed in the framework of a criminal organisation within the meaning 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.

Amendment

(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA⁵⁶, ***or for the benefit of an organisation of such kind;***

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

Amendment 126

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

Text proposed by the Commission

Amendment

(c a) the offence was committed together with other criminal offences, or it constituted a predicate offence for other criminal offences;

Amendment 127

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

Text proposed by the Commission

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

Amendment

(d) the offence involved the use of false or forged documents, ***or was committed under an authorisation that is illegal, obtained fraudulently or by corruption, extortion or coercion;***

Amendment 128

Proposal for a directive

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

Text proposed by the Commission

Amendment

(d a) the offence was committed in violation of due diligence obligations or in breach of related decisions made by competent authorities;

Amendment 129

Proposal for a directive

Article 8 – paragraph 1 – point e

Text proposed by the Commission

Amendment

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

(e) the offence was committed by, **or with the involvement of**, a public official when performing his/her duties, **or for the benefit of a public authority**;

Amendment 130

Proposal for a directive

Article 8 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) the offender committed similar previous infringements of environmental law;

(f) the offender **previously** committed similar previous infringements of environmental law;

Amendment 131

Proposal for a directive

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

Text proposed by the Commission

Amendment

(j a) the offender committed an offence

*under Article 3 while subject to a
derogation under article 15(4) of Directive
2010/75/EU;*

Amendment 132

Proposal for a directive

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

Text proposed by the Commission

Amendment

*(j b) the offence caused the
unnecessary and avoidable suffering of
animals.*

Amendment 133

Proposal for a directive

Article 9 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) the offender *reinstate the
environment* to its previous condition,
*where such reinstatement is possible and
it has been carried out voluntarily and
before the beginning of the criminal
proceeding,*

Amendment 134

Proposal for a directive

Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

Precautionary measures

*1. Member States shall take the necessary
measures to ensure that, pending the
investigation, prosecution or adjudication
of environmental offences, their
competent authorities may adopt interim
measures, including an environmental*

injunction, for immediate cessation of the unlawful conducts referred to in Articles 3, 3(1a) and 4 of this Directive, if such a conduct is still ongoing, or impose measures to prevent the execution of such conducts, in order to avert a damage to the environment.

2. Member States shall ensure that the precautionary measures referred to in paragraph 1 may be adopted upon request of the authorities responsible for the detection, investigation and prosecution of the offences referred to in Articles 3, 3(1a), and 4 of this Directive, and by the public concerned.

Amendment 135

Proposal for a directive Article 10 – title

Text proposed by the Commission

Freezing and confiscation

Amendment

Seizure, freezing and confiscation

Amendment 136

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.

Amendment

Member States shall take the necessary measures to ensure that their competent authorities may, **even after final conviction, trace, identify, seize**, freeze **and** confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council ⁵⁸, **all** 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).

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 137

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

Text proposed by the Commission

Amendment

1(a) Member States shall ensure that where live animals are subject to seizure pursuant to the commission of offences referred to in Article 3, 3(1a) and 4 of this Directive, the competent authorities can adopt interim measures regarding their placement in order to ensure adequate care, pending investigation, prosecution or adjudication of the offence.

Amendment 138

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

Text proposed by the Commission

Amendment

1(b) Member States shall take the necessary measures to ensure that frozen and confiscated proceeds and instrumentalities from the offences, or where relevant the financial assets obtained from selling material proceeds or instrumentalities from the offences, are appropriately managed, in line with their nature, and used, in connection with the relevant offences and without prejudice to the penalties and sanctions provided for in Articles 5 and 7 of this Directive to:
(a) finance the restoration of the environment;

(b) repair the damages caused and compensate victims;

(c) finance the housing and care of confiscated live animals;

(d) ensure that confiscated wildlife products are offered to appropriate public entities for genuine educational, scientific and conservation purposes or cover the costs associated with their destruction, if their use for these purposes is not practicable.

Amendment 139

Proposal for a directive

Article 10 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1(c) Member States shall ensure that, wherever possible, confiscated proceeds and instrumentalities from the offences or, where relevant, the financial assets obtained from selling material proceeds or instrumentalities from the offences, are used to finance the National Fund provided for in Article 12a of this Directive.

Amendment 140

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 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.

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, ***or after their detection where those offences were concealed or***

discovered at a later moment than that of their commission, in order for those criminal offences to be tackled effectively. ***For the investigation, prosecution, trial and adjudication with respect to the criminal offences referred in Article 3(1a) there shall not be limitation period.***

Amendment 141

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, ***within a limitation*** period of at least ten years from the time when the offence was committed, ***or of at least ten years from the day when the offence was detected in case the offence was concealed or discovered at a later moment than that of its commission***, when offences are punishable;

Amendment 142

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, ***within a limitation*** period of at least six years from the time when the offence was committed, ***or of at least six years from the day when the offence was detected in case the offence was concealed or discovered at a later moment than that of its commission***, when offences are punishable;

Amendment 143

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, ***within a limitation*** period of at least four years from the time when the offence was committed, ***or of at least four years from the day when the offence was detected in case the offence was concealed or discovered at a later moment than that of its commission,*** when offences are punishable.

Amendment 144

Proposal for a directive

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 145

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, ***or at least one of the victims,*** is one of its nationals or habitual residents, ***or a legal person established on its territory or with registered office on its territory;***

Amendment 146

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

Text proposed by the Commission

Amendment

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

Amendment 147

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

Text proposed by the Commission

Amendment

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

2. A Member State shall ***take the necessary measures, and*** inform the Commission, where it decides to extend its jurisdiction to offences referred to in Articles 3, ***3(1a)***, and 4 which have been committed outside its territory, where:

Amendment 148

Proposal for a directive
Article 12 – paragraph 2 – 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 149

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

Text proposed by the Commission

Amendment

(b) the offence is committed against one of its nationals or its habitual residents;

deleted

Amendment 150

Proposal for a directive

Article 12 – paragraph 2 – point c

Article 12

Text proposed by the Commission

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

Amendment

(c) the offence has created a severe risk for the environment, ***the biodiversity or the conservation of native wildlife populations and their habitats*** on its territory.

Amendment 151

Proposal for a directive

Article 12 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA⁵⁹, be referred to Eurojust.

Amendment

Where an offence referred to in Articles 3, ***3(1a)***, and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to ***swiftly*** determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA⁵⁹, be referred to Eurojust.

Where an offence referred to in the Articles 3, 3(1a), and 4 was committed in the framework of a criminal organisation, and falls within the jurisdiction of more than one Member State, the determination of which Member State shall conduct criminal proceedings shall be done in accordance with article 7 of Framework Decision 2008/841/JHA.

Where a conflict of jurisdiction arises, Member States shall nonetheless be entitled to adopt precautionary measures, as provided for in Article 9a, in order to prevent a damage to the environment or

the further deterioration of an existing damage affecting their territory

⁵⁹ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42).

⁵⁹ Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42).

Amendment 152

Proposal for a directive Article 12 – paragraph 3

Text proposed by the Commission

3. In cases referred to in paragraph 1, points (c) **and (d)**, Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.

Amendment

3. In cases referred to in paragraph 1, points (c), **(d), and (da)** Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.

Amendment 153

Proposal for a directive Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12 a

National Fund for preventing and combating environmental crime, victims' compensation and environment's restoration

1. Member States shall, within 9 months from the entry into force of this Directive, establish and maintain a national fund, or where relevant adjust such an existing fund, aimed at:

a) compensating victims of environmental crimes not covered by already existing

national schemes for compensation to victims of crime or by the provisions of Directive 2004/80/EC;

b) financing environmental and ecological restoration;

c) financing prevention measures, including but not limited to those referred to in Article 9a;

d) supporting the measures foreseen in Article 10 of this Directive.

Points a) to d) are without prejudice to the application of the relevant penalties and sanctions provided for in Articles 5 and 7 of this Directive.

2. The fund shall be financed inter alia through criminal and non-criminal fines and damage compensations foreseen in Articles 5 and 7 of this Directive and, where applicable, through the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offence that have been confiscated in accordance with Article 10 of this Directive.

Amendment 154

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 **full application of the** protection granted under Directive (EU) 2019/1937 to **any natural** persons reporting criminal offences referred to in Articles 3, **3(1a)** and 4 of this Directive **and to their families, and to take the necessary measures to ensure a similar adequate level of protection for any legal persons reporting these offences.**

Amendment 155

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 **any natural and legal** persons reporting offences referred to in Articles 3, **3(1a)** 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 156

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

Text proposed by the Commission

Amendment

2 a. The Commission, with the cooperation of Member States shall create an EU-wide platform to enable persons to report environmental offences, as provided by in Article 3, 3(1a) and 4 of this Directive, anonymously in an easy and secure way. This platform will also allow persons to inform 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 157

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

Text proposed by the Commission

Amendment

2 b. *Member States shall take the necessary measures to ensure natural and legal persons reporting criminal offences referred to in Articles 3, 3(1a) and 4 of this Directive are protected against strategic lawsuits against public participation, in line with the Directive 2022/... [Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings].*

Amendment 158

Proposal for a directive

Article 13 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. *Member States shall set up reinforced protection measures for persons reporting criminal offences committed in the framework of a criminal organisation or involving such an organisation.*

Amendment 159

Proposal for a directive

Article 14 – title

Text proposed by the Commission

Amendment

Rights for the public concerned to participate in proceedings

Access to justice and rights for the public concerned to participate in proceedings

Amendment 160

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 concerned have appropriate rights to participate in proceedings concerning offences referred to in Articles 3, **3(1a)** and 4, for instance as a civil party.

Amendment 161

**Proposal for a directive
Article 14 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1(a). Member States shall ensure that, in accordance with their national legal system, members of the public concerned whose rights and interests have been affected or are likely to be affected by the offences referred to in Articles 3, 3(1a) and 4 can be entitled to bring actions before the courts for environmental and ecological restoration.

Amendment 162

**Proposal for a directive
Article 14 – paragraph 1 b (new)**

Text proposed by the Commission

Amendment

1(b). Member States shall take all the appropriate measures to facilitate access to justice and ensure procedural rights to the members of the public concerned, including access to legal aid.

Amendment 163

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

Amendment

Member States shall take appropriate action, such as **research and education programmes, including studies on the origin and motivation for committing environmental crimes, as well as** information and awareness-raising campaigns, **including on preventive and anti-corruption measures, and targeting the general public, the private sector as well as national authorities with the aim** to reduce overall **number of** 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 authorities competent for the investigation, prosecution and adjudication of environmental crime, experts, private sector organisations, and non-governmental organisations promoting the protection of the environment. Member States shall develop and strengthen tools such as risk assessments, anti-corruption strategies and administrative inspections systems to prevent and detect environmental crimes.**

Amendment 164

**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

Amendment

Member States shall ensure that national authorities which **carry out inspections,** detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of qualified **and specialised** staff, **shall provide regular training to this staff, and shall make sure that these national authorities have** sufficient financial, technical and technological resources

implementation of this Directive.

necessary for the effective performance of their functions related to the implementation of this Directive. ***Member States shall establish specialised bodies or confer specialised mandate to existing bodies, such as specialised units within the law enforcement authorities as well as specialised judicial authorities or chambers within the general criminal courts, with primary competence to detect, investigate, prosecute and adjudicate environmental offences, and equip those bodies with the necessary resources to perform their functions.***

Amendment 165

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 ***and exchanges of best practices at EU level 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 cover the practical use of investigative tools available to fight environmental crime, as referred to in Article 18 of this Directive, as well as effective cooperation between different competent authorities, particularly as regard the investigation and prosecution of transnational environmental crime, and its link with other forms of serious crimes.***

Member States shall ensure that those

responsible for these trainings have sufficient, stable and predictable financing available for the regular organisation of the trainings.

The Commission shall, within a reasonable timeframe, take the necessary measures to ensure that the online training for law enforcement authorities provided by the European Union Agency for Law Enforcement Training (CEPOL) is available in all official EU languages in order to allow for the maximisation of the number of recipients of the training.

Amendment 166

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

Member States shall take the necessary measures to ensure that effective investigative tools, *including* those which are used in organised crime or other serious *crimes with cross-border dimension*, are also available for investigating or prosecuting offences referred to in Articles 3, *3(1a)* and 4.

Amendment 167

Proposal for a directive Article 19 – title

Text proposed by the Commission

Coordination and cooperation between competent authorities within *a* Member *State*

Amendment

Coordination and cooperation between competent authorities within *and between* Member *States and with relevant bodies at EU level*

Amendment 168

Proposal for a directive
Article 19 – paragraph 1 – point d

Text proposed by the Commission

(d) the exchange of best practices;

Amendment

(d) the exchange of best practices,
including on the setting-up of specialised law enforcement and judicial authorities competent for environmental offences, as foreseen in Article 16;

Amendment 169

Proposal for a directive
Article 19 – paragraph 1 – point e

Text proposed by the Commission

(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related infringements,

Amendment

(e) assistance to ***European agencies and bodies, and*** European networks of practitioners working on matters relevant to combating environmental offences and related infringements,

Amendment 170

Proposal for a directive
Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.

Amendment

and may take the form of specialised coordination bodies ***with a designated contact point***, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.

The European Commission shall facilitate such coordination by providing support and promote a more institutionalised structure for existing networks of practitioners.

Member states shall ensure that, where relevant, when investigating or prosecuting the offences referred to in Articles 3, 3(1a), and 4, their authorities

establish contacts and consultations and maintain close cooperation with the competent authorities of other Member States affected and with the relevant EU institutions, agencies, bodies and offices within their respective mandates and competences.

Amendment 171

Proposal for a directive Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19 a

Investigation of environmental crime at EU level

The Commission shall, within 12 months from the entry into force of this Directive, draw up a report on the possibility and modalities of the extension of competences of the European Public Prosecutor's Office as provided for in Article 86 of the Treaty on the Functioning of the European Union to include serious environmental crime that are detrimental to the interests of the Union or affect the consistent application of EU policies related to the protection of the environment, and present it to the Council and the European Parliament.

Amendment 172

Proposal for a directive Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. ***By [OP – please insert the date – within one year after the entry into force of this Directive], Member States shall establish, publish and implement a national strategy on combating environmental***

1. Within one year after the entry into force of this Directive, Member States shall establish, publish and implement a national strategy on combating environmental criminal offences which as a minimum

criminal offences which as a minimum shall address the following:

shall address the following:

Amendment 173

Proposal for a directive

Article 20 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) the modes of coordination and cooperation between the competent ***national*** authorities, ***and between competent national authorities and the competent national authorities of other Member States***;

Amendment 174

Proposal for a directive

Article 20 – paragraph 1 – point f

Text proposed by the Commission

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

Amendment

(f) the procedures and mechanisms for regular monitoring, evaluation ***and reporting*** of the results achieved ***and of the degree of implementation and enforcement of the provision of this Directive***;

Amendment 175

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, ***prosecuted and adjudicated***;

Amendment 176

Proposal for a directive
Article 21 – paragraph 2 – point c

Text proposed by the Commission

(c) the average length of the criminal investigations of environmental crimes;

Amendment

(c) the average length of the criminal investigations of environmental crimes ***as well as of criminal proceedings***;

Amendment 177

Proposal for a directive
Article 21 – paragraph 2 – point d

Text proposed by the Commission

(d) the number of convictions for environmental crime;

Amendment

(d) the ***total*** number of convictions for environmental crime;

Amendment 178

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

Text proposed by the Commission

Amendment

(d a) the number of convictions for environmental crimes related to offences committed in the framework of a criminal organisation;

Amendment 179

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

Text proposed by the Commission

Amendment

(d b) the number of convictions for environmental crimes related to offences committed by a public official or involving a public authority;

Amendment 180

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

Text proposed by the Commission

Amendment

(g a) the number of court cases ended due to the expiration of the limitation period;

Amendment 181

Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission

Amendment

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

3. Member States shall ensure that ***the statistical data referred to in paragraph 2 and*** a consolidated review of their statistics ***are published annually. The following year after the standard format referred to in Article 22 is established, Member States shall start using it for their annual publications of statistics.***

Amendment 182

Proposal for a directive
Article 21 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall regularly publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time ***three*** years after the standard format referred to in Article 22 has been determined.

5. The Commission shall regularly publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time ***two*** years after the standard format referred to in Article 22 has been determined. ***The Commission shall establish the standard form within 18 months after the entry into force of this Directive.***

Amendment 183

Proposal for a directive
Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24 a

Guidelines

1. The European Commission, in cooperation with the European networks of practitioners and with relevant experts and stakeholders, shall regularly provide Member States and their authorities with individual guidance as well as with collective guidelines and recommendations on the aspects of the Directive where it deems necessary to ensure correct, consistent and coherent transposition and implementation at Member State level.

This guidance should include the identification of high risk situations and potential threats concerning persons reporting environmental offences, and recommendations for follow-up actions and protection measures in line with Article 13 of this Directive.

2. In line with paragraph 1 and in order to ensure consistency and coherence across Member States for the purpose of law enforcement and to prevent forum shopping by offenders, the Commission shall, within 18 months after the entry into force of this Directive, issue guidelines to facilitate common understanding among Member States of the elements provided for in paragraphs 3 to 5 of Article 3 in accordance with national and European environmental law.

Amendment 184

Proposal for a directive
Article 25 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. The Commission shall by [OP – please insert the date - **one year** after the transposition period is over], **and every three 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. Member States shall provide the Commission with the necessary information for the preparation of that report. ***The Commission shall prepare the report based not only on the information provided by the Member States, but also based on its own scrutiny as well as based on public consultations involving relevant stakeholders, including civil society organisations, environmental protection agencies and competent authorities.***

Amendment 185

**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 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 21.***

Amendment 186

**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 - **four** years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive ***as well as the need to update the list of offences in Article 3*** 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.

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	LIBE 27.1.2022
Rapporteur for the opinion Date appointed	Saskia Bricmont 5.9.2022
Discussed in committee	25.10.2022
Date adopted	6.2.2023
Result of final vote	+ : 35 - : 16 0 : 0
Members present for the final vote	Konstantinos Arvanitis, Katarina Barley, Theresa Bielowski, Karolin Braunsberger-Reinhold, Patrick Breyer, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Maria Grapini, Evin Incir, Sophia in 't Veld, Patryk Jaki, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Erik Marquardt, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Diana Riba i Giner, Isabel Santos, Tineke Strik, Ramona Strugariu, Tom Vandendriessche, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Susanna Ceccardi, Gwendoline Delbos-Corfield, Dietmar Köster, Alessandra Mussolini, Matjaž Nemec, Janina Ochojska, Anne-Sophie Pelletier, Thijs Reuten, Miguel Urbán Crespo, Axel Voss
Substitutes under Rule 209(7) present for the final vote	Aurélia Beigneux, Milan Brglez, Katalin Cseh, Marie Dauchy, Paolo De Castro, José Manuel Fernandes, Tomasz Frankowski, Vlad Gheorghe, Martin Hojsík, Max Orville, Mounir Satouri

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

35	+
Renew	Katalin Cseh, Lucia Ďuriš Nicholsonová, Vlad Gheorghe, Martin Hojsik, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Max Orville, Maite Pagazaurtundúa, Ramona Strugariu
S&D	Katarina Barley, Theresa Bielowski, Milan Brglez, Paolo De Castro, Maria Grapini, Evin Incir, Łukasz Kohut, Dietmar Köster, Juan Fernando López Aguilar, Javier Moreno Sánchez, Matjaž Nemeč, Thijs Reuten, Isabel Santos, Elena Yoncheva
The Left	Konstantinos Arvanitis, Cornelia Ernst, Anne-Sophie Pelletier, Miguel Urbán Crespo
Verts/ALE	Patrick Breyer, Gwendoline Delbos-Corfield, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Mounir Satouri, Tineke Strik

16	-
ECR	Patryk Jaki
ID	Aurélia Beigneux, Susanna Ceccardi, Marie Dauchy, Tom Vandendriessche
PPE	Karolin Braunsberger-Reinhold, Lena Düpont, José Manuel Fernandes, Tomasz Frankowski, Jeroen Lenaers, Lukas Mandl, Alessandra Mussolini, Janina Ochojska, Paulo Rangel, Axel Voss, Javier Zarzalejos

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention