



**2021/0422(COD)**

4.10.2022

# **DRAFT 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 ***climate and*** the environment, ***as well as to several human***

*rights and fundamental freedoms* and therefore call for an appropriate and effective response.

Or. en

## 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 Council<sup>20</sup> 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.

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<sup>20</sup> 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 Council<sup>20</sup> 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. ***In many Member States environmental offences do not yet fall within the framework of criminal law and are treated as administrative offences, with perpetrators receiving only pecuniary and administrative charges.*** Compliance should be strengthened by the availability of criminal penalties, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties.

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<sup>20</sup> 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).

Or. en

## Amendment 3

### Proposal for a directive Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

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

Or. en

#### **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 graduated in accordance with 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.

Or. en

## Amendment 5

### Proposal for a directive

#### Recital 6

##### *Text proposed by the Commission*

(6) Member States should provide for criminal penalties in their national legislation in respect of serious infringements of provisions of Union law concerning protection of the environment. In the framework of the common fisheries policy, Union law provides for comprehensive set of rules for control and enforcement under Regulation (EC) No 1224/2009<sup>21</sup> 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 Deal<sup>22</sup> and the EU Biodiversity Strategy for 2030<sup>23</sup>, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008<sup>24</sup> should be established as criminal offences.

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<sup>21</sup> 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).

<sup>22</sup> 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.

##### *Amendment*

(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, Union law provides for comprehensive set of rules for control and enforcement under Regulation (EC) No 1224/2009<sup>21</sup> 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 Deal<sup>22</sup> and the EU Biodiversity Strategy for 2030<sup>23</sup>, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008<sup>24</sup> should be established as criminal offences.

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<sup>21</sup> 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).

<sup>22</sup> 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.

<sup>23</sup> 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

<sup>24</sup> 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).

<sup>23</sup> 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

<sup>24</sup> 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).

Or. en

## Amendment 6

### 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

##### *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 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.

or is considered otherwise as particularly harmful to the environment **or human health** 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.

Or. en

## **Amendment 7**

### **Proposal for a directive Recital 8**

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## **Amendment 8**

### **Proposal for a directive Recital 11**

#### *Text proposed by the Commission*

(11) Qualitative and quantitative thresholds used to define environmental

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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.

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. ***To this regard, the Commission should issue guidelines to define, in accordance with national and European environmental law, the elements that Member States legislation should provide for to assess the nature and entity of the damage for the purposes of the investigation, prosecution and adjudication of offences.***

Or. en

## **Amendment 9**

### **Proposal for a directive Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) Environmental crimes can be perpetrated by a range of actors, from individuals, small groups, companies and corporations, government individuals, organised criminal networks, or a combination of all these. Large multinational corporations may exploit and damage the environment in order to generate more profit or reduce their costs, including through natural resource exploitation, pollution crimes and hazardous waste disposal.***

Or. en

## Amendment 10

### Proposal for a directive Recital 12

#### *Text proposed by the Commission*

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

#### *Amendment*

(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 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.*

Or. en

## Amendment 11

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the obligation to reinstate the environment, exclusion from access to public funding, including tender procedures, grants *and* concessions and withdrawal of permits and authorisations. This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

#### *Amendment*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, *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 or reparation.* 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, *as well as compensation for the damage caused,* exclusion from access to public funding, including tender procedures, grants, concessions *and licenses* and withdrawal of permits and authorisations. *When offences are committed by government 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.

Or. en

## Amendment 12

### 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.***

Or. en

## Amendment 13

### Proposal for a directive Recital 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) While the recognition of the crime of ecocide is currently being discussed in several national parliaments around the world and in the 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 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 graduate 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.***

Or. en

#### **Amendment 14**

##### **Proposal for a directive**

##### **Recital 17**

*Text proposed by the Commission*

*Amendment*

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

(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.*

Or. en

## Amendment 15

### Proposal for a directive Recital 17 a (new)

*Text proposed by the Commission*

*Amendment*

*(17a) 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. In the same vein, Member States can decide to use financial resources from that fund to ensure access to justice in environmental judicial proceedings.*

Or. en

## Amendment 16

### Proposal for a directive Recital 17 b (new)

*Text proposed by the Commission*

*Amendment*

*(17b) 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.*

Or. en

## **Amendment 17**

### **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 be graduated to the gravity of the offence. For the investigation, prosecution, trial and adjudication of the ecocide offences there should not be limitation period.*

Or. en

## **Amendment 18**

### **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, together with the cross-border nature of offences and the possibility of cross-border investigations,

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

Member States should establish jurisdiction in order to counter 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.***

Or. en

## Amendment 19

### 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 Council<sup>25</sup> .

persons should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the Council<sup>25</sup> .

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<sup>25</sup> 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).

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<sup>25</sup> 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).

Or. en

## Amendment 20

### Proposal for a directive Recital 24 a (new)

*Text proposed by the Commission*

*Amendment*

***(24a) Environmental defenders who directly protect ecosystems are also often on the front line of the consequences of environmental crime worldwide, including in the EU. They may be directly threatened, intimidated, persecuted, harassed or even murdered by perpetrators, and as such should also benefit from balanced and effective protection. The EU's support for the establishment of protection measures, is also a way to better fight environmental crime.***

Or. en

## Amendment 21

### Proposal for a directive Recital 24 b (new)

*Text proposed by the Commission*

*Amendment*

***(24b) 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".*

Or. en

## Amendment 22

### Proposal for a directive Recital 24 c (new)

*Text proposed by the Commission*

*Amendment*

*(24c) 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.*

Or. en

## Amendment 23

### Proposal for a directive Recital 25

*Text proposed by the Commission*

*Amendment*

(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

(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

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.

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.

Or. en

## Amendment 24

### Proposal for a directive Recital 25 a (new)

*Text proposed by the Commission*

*Amendment*

***(25a) 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.***

Or. en

## Amendment 25

### Proposal for a directive Recital 26

*Text proposed by the Commission*

*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 Convention<sup>26</sup>, 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

(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 Convention<sup>26</sup>, ***as well as non-governmental organisations promoting the protection of the environment***, should have the possibility to act on behalf of the environment as a

procedural rules.

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.**

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

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

Or. en

## Amendment 26

### 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. 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.

#### *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 **establish and assign** 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 **as well as**

*the necessary resources to perform their functions.*

Or. en

## **Amendment 27**

### **Proposal for a directive Recital 29 a (new)**

*Text proposed by the Commission*

*Amendment*

*(29a) 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 would be best placed to exert its competences on the most serious environmental crimes with a cross-border dimension. The Commission should assess the possibility 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. The Commission should integrate its evaluation in the report foreseen in article 119 of Regulation (EU) 2017/1939.*

Or. en

## **Amendment 28**

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

*Text proposed by the Commission*

*Amendment*

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

This Directive establishes minimum rules *to fight against environmental crime, defining* of criminal offences and sanctions, *and facilitating cooperation*

*among investigating and prosecuting authorities* in order to protect the environment more effectively.

Or. en

## Amendment 29

### Proposal for a directive

#### Article 2 – paragraph 1 – point 1 – point b

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 30

### Proposal for a directive

#### Article 2 – paragraph 1 – point 1 – paragraph 1

*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;

Or. en

## Amendment 31

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

***(1a) ‘substantial damage’ means an actual or likely damage which involves serious adverse changes to the baseline condition of the affected environment, severe disruption or harm to any element of the environment, including grave impacts on human life, human health, or natural, cultural or economic resources;***

Or. en

### **Amendment 32**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

### **Amendment 33**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## Amendment 34

### Proposal for a directive Article 2 – paragraph 1 – point 1 d (new)

*Text proposed by the Commission*

*Amendment*

**(1d) ‘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;**

Or. en

## Amendment 35

### Proposal for a directive Article 2 – paragraph 1 – point 1 e (new)

*Text proposed by the Commission*

*Amendment*

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

Or. en

## Amendment 36

### Proposal for a directive Article 2 – paragraph 1 – point 3

*Text proposed by the Commission*

*Amendment*

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

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



### Amendment 37

#### Proposal for a directive

#### Article 2 – paragraph 1 – point 4

*Text proposed by the Commission*

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

*Amendment*

(4) ‘public concerned’ means the persons, ***or groups of persons including local communities***, affected or likely to be affected by the offences referred to in Articles 3, ***3a*** or 4, as well as non-governmental organisations promoting the protection of the environment. ***For the 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 ***have access to effective remedies before a Court or Tribunal established by law***;

### Amendment 38

#### Proposal for a directive

#### Article 3 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

***-1. Member States shall ensure that, when committed intentionally or with 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.***

## Amendment 39

### Proposal for a directive

#### Article 3 – paragraph 1 – point a

*Text proposed by the Commission*

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

*Amendment*

(a) the discharge, emission or introduction of a quantity of materials, **energy** or substances or ionising radiation into air, soil or water which causes or is likely to cause death, **or substantial harm to human health**, or 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;

Or. en

## Amendment 40

### Proposal for a directive

#### Article 3 – paragraph 1 – point b

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 41

### Proposal for a directive

#### Article 3 – paragraph 1 – point c – introductory part

*Text proposed by the Commission*

(c) the manufacture, placing on the

*Amendment*

(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:

market, **export** or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

Or. en

## Amendment 42

### 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;

Or. en

## Amendment 43

### 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:

Or. en

## Amendment 44

### 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;

Or. en

**Amendment 45**

**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 Council<sup>42</sup> 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**;

*Amendment*

(h) the ship-source discharges of polluting substances **as defined in Article 3(2) of the Directive 2008/56/EC<sup>41a</sup> and/or** referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council<sup>42</sup> 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 **the marine environment**, unless repeated cases by the same offender in conjunction result in deterioration in the quality of **marine environment**;

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<sup>41a</sup> **Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy**

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<sup>42</sup> Directive 2005/35/EC of the European

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<sup>42</sup> 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).

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).

Or. en

## Amendment 46

### 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 Council<sup>43</sup>, Directive 2010/75/EU of the European Parliament and of the Council<sup>44</sup> or Directive 2013/30/EU of the European Parliament and of the Council<sup>45</sup> 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;

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<sup>43</sup> 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).

<sup>44</sup> 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–

##### *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 Council<sup>43</sup>, Directive 2010/75/EU of the European Parliament and of the Council<sup>44</sup> or Directive 2013/30/EU of the European Parliament and of the Council<sup>45</sup> 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;

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<sup>43</sup> 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).

<sup>44</sup> 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).

<sup>45</sup> 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).

119).

<sup>45</sup> 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).

Or. en

#### Amendment 47

##### 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 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.***

Or. en

#### Amendment 48

##### Proposal for a directive Article 3 – paragraph 1 – point k a (new)

###### *Text proposed by the Commission*

###### *Amendment*

***(ka) The 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***

Or. en

## Amendment 49

### 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 338/97<sup>51</sup>, except for cases where the conduct concerns a negligible quantity of such specimens;

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

*Amendment*

(m) trading in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A, **B and C** to Council Regulation (EC) No 338/97<sup>51</sup>, except for cases where the conduct concerns a negligible quantity of such specimens;

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

Or. en

## Amendment 50

### Proposal for a directive Article 3 – paragraph 1 – point o

*Text proposed by the Commission*

(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**;

Or. en

## Amendment 51

### Proposal for a directive

#### Article 3 – paragraph 1 – point p – point ii

*Text proposed by the Commission*

(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;

*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, **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;

Or. en

## Amendment 52

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

**(ra) the violation of standards as set in the Corporate Sustainability Due Diligence (COD2022/0051) and the Corporate Sustainability Reporting Directive;**

Or. en

## Amendment 53

### 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

2. Member States shall ensure that the conduct referred to in paragraph 1, points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), **(l)** (m), (n), **(o)**, (p) (ii), (q), (r) also constitutes



criminal offence, when committed with at least serious negligence.

a criminal offence, when committed with at least serious negligence.

Or. en

#### **Amendment 54**

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

*Text proposed by the Commission*

*Amendment*

***(ea) entity of the damage evaluated on the basis of the polluter pays principle and based on a nomenclature (or classification of environmental damage), dedicated to judicial use only, describing the ecological, environmental, social or economic value of the supplied ecosystem or of specimen of wildlife affected or killed;***

Or. en

#### **Amendment 55**

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

*Text proposed by the Commission*

*Amendment*

***(e b) financial benefits gained by committing the offence;***

Or. en

#### **Amendment 56**

##### **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;***

Or. en

## **Amendment 57**

### **Proposal for a directive Article 3 – paragraph 4 – point a**

*Text proposed by the Commission*

*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;

(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;***

Or. en

## **Amendment 58**

### **Proposal for a directive Article 3 – paragraph 4 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the impact on human health and other human rights;***

Or. en

## **Amendment 59**

### **Proposal for a directive Article 3 – paragraph 4 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

**(cb) the activity constitutes a violation of due diligence obligations;**

Or. en

## **Amendment 60**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

**(cc) the potential quantity of financial benefits, including estimated cost of compliance, gained by committing the offence.**

Or. en

## **Amendment 61**

### **Proposal for a directive**

#### **Article 3 – paragraph 5 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

5. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account 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):

Or. en

## Amendment 62

### Proposal for a directive Article 3 – paragraph 5 – point c

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 63

### Proposal for a directive Article 3 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 3a***

#### ***Ecocide***

***Member States shall introduce in their national law a crime of ecocide, which shall be considered a serious criminal offence for the purposes of this Directive and shall be defined as unlawful or wanton acts 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.***

Or. en

## Amendment 64

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences

*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.

referred to in **Articles 3(1) and 3a** are punishable as criminal offences.

Or. en

## **Amendment 65**

### **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 3a** when committed intentionally is punishable as a criminal offence.

Or. en

## **Amendment 66**

### **Proposal for a directive Article 5 – paragraph 1**

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## **Amendment 67**

### **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 **Articles 3 and 3a** are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person.

Or. en

**Amendment 68**

**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)**, (n), **(o)**, (q), (r) are punishable by a maximum term of imprisonment of at least six years.

Or. en

**Amendment 69**

**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), (p) are punishable by a maximum term of imprisonment of at least four years.

Or. en

## Amendment 70

### 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, **3a** and 4 may be subject to additional sanctions or measures which shall include:

Or. en

## Amendment 71

### 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 given time period **covering the cost of reinstatement, and to compensate for the damage caused;**

Or. en

## Amendment 72

### 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 committing the offence or to the damage caused;**

Or. en

### Amendment 73

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

### Amendment 74

#### 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;

Or. en

### Amendment 75

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

*Text proposed by the Commission*

*Amendment*

***5a. 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 and proportionate administrative sanctions.***

Or. en



## Amendment 76

### 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, **3a** 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:

Or. en

## Amendment 77

### Proposal for a directive Article 6 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) a mandate to provide services or offer of products designed to grow, protect, utilise and disseminate the wealth of the legal person.**

Or. en

## Amendment 78

### 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

*Amendment*

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of an offence

referred to in Articles 3 and 4 **for the benefit of the legal person** by a person under its authority.

referred to in Articles 3, **3a** and 4 by a person under its authority.

Or. en

## Amendment 79

### 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 **or other legal** persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3, **3a** and 4.

Or. en

## Amendment 80

### 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) is punishable by effective, proportionate and dissuasive sanctions. ***The level of sanctions shall be graduated, reflecting the degree of severity and duration of the environmental consequences, and their impact on human health.***

Or. en

## Amendment 81

### 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) for the offences referred to in Articles 3, **3a** and 4 shall include:

Or. en

## Amendment 82

### Proposal for a directive

#### Article 7 – paragraph 2 – point b

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 83

### Proposal for a directive

#### Article 7 – paragraph 2 – point c

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 84

### Proposal for a directive

#### Article 7 – paragraph 2 – point d

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 85

### Proposal for a directive

#### Article 7 – paragraph 2 – point j

*Text proposed by the Commission*

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

*Amendment*

(j) **requirement for** companies **to abide by their obligation** to install due diligence schemes for enhancing compliance with environmental standards;

Or. en

## Amendment 86

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

**(k a) temporary or permanent removal from the European Transparency Register.**

Or. en

## Amendment 87

### 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 **15%** of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.

Or. en

## Amendment 88

### Proposal for a directive Article 7 – paragraph 5

*Text proposed by the Commission*

**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.**

*Amendment*

**deleted**

Or. en

## Amendment 89

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## **Amendment 90**

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

*Text proposed by the Commission*

*Amendment*

**6b.** *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 and proportionate administrative sanctions.*

Or. en

## **Amendment 91**

### **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 the health of the public concerned;***

Or. en

## Amendment 92

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

*Text proposed by the Commission*

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

*Amendment*

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem ***or the population of wild fauna or flora species 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. en

## Amendment 93

### 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/JHA<sup>56</sup> ;

*Amendment*

(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA<sup>56</sup> ***or for the benefit of an organisation of such kind;***

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

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

Or. en

## Amendment 94

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## **Amendment 95**

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

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

## **Amendment 96**

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

*Text proposed by the Commission*

*Amendment*

***(da) the offence constitutes a violation of due diligence obligations or non-compliance with related decisions made by competent authorities;***

Or. en

## **Amendment 97**

### **Proposal for a directive Article 8 – paragraph 1 – point e**



*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 98**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 99**

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

*Text proposed by the Commission*

*Amendment*

***(ja) the offender committed an offence under Article 3 while subject to a derogation under article 15(4) of Directive 2010/75/EU;***

Or. en

**Amendment 100**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

### **Amendment 101**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

### **Amendment 102**

**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 restores nature to its previous condition ***when such restoration is possible and the relevant activity has been carried out voluntarily and before the beginning of the criminal proceeding;***

Or. en

## Amendment 103

### Proposal for a directive Article 9 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 9a*

##### *Precautionary measures*

- 1. Member States shall take the necessary measures to ensure that their competent authorities may order the immediate cessation of the unlawful conducts referred to in Articles 3, 3a and 4 of this Directive, 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, 3a, and 4 of this Directive, and by the public concerned.*

Or. en

## Amendment 104

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

*Text proposed by the Commission*

*Amendment*

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 Council<sup>58</sup>, the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the

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

offences as referred to in this Directive.

***Member States shall take the necessary measures to ensure that frozen and confiscated proceeds and instrumentalities are appropriately managed, in line with their nature, and, where possible, used to finance reparations. Member States shall take the necessary measures enabling the use of those assets 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, or sustain their management by public entities for educational and conservation purposes;***
- (d) cover the costs associated with the destruction of confiscated wildlife products, or with the combating of similar crimes.***

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<sup>58</sup> 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).

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<sup>58</sup> 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).

Or. en

## **Amendment 105**

### **Proposal for a directive Article 11 – paragraph 1**

#### *Text proposed by the Commission*

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

#### *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.

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 3a there shall not be limitation period.***

Or. en

## Amendment 106

### 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 discovered in case the offence was concealed or discovered at a later moment than that of its commission***, when offences are punishable;

Or. en

## Amendment 107

### 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

#### *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, **for a** period of at least six years from the time when the offence was committed, when offences are punishable;

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

Or. en

## Amendment 108

### 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 ten years from the day when the offence was discovered in case the offence was concealed or discovered at a later moment than that of its commission**, when offences are punishable.

Or. en

## Amendment 109

### Proposal for a directive Article 11 – paragraph 3

#### *Text proposed by the Commission*

3. By way of derogation from paragraph 2, Member States may establish a limitation period that is shorter than ten years, but not shorter than four years, provided that the period may be interrupted or suspended in the event of specified acts.

#### *Amendment*

3. By way of derogation from paragraph 2, Member States may establish a limitation period that is shorter than ten years, but not shorter than four years, provided that the period may be interrupted or suspended in the event of specified acts.

*For the offences referred to in Article 3a there shall be no limitation period.*

Or. en

## **Amendment 110**

### **Proposal for a directive**

#### **Article 12 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## **Amendment 111**

### **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. en

## **Amendment 112**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(da) the offence is committed by one of the persons referred to Article 6 paragraph 1 of this Directive, and the legal person is established or has its***

*registered office on its territory;*

Or. en

### **Amendment 113**

#### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

### **Amendment 114**

#### **Proposal for a directive**

#### **Article 12 – paragraph 1 – point d c (new)**

*Text proposed by the Commission*

*Amendment*

*(dc) the offence is committed by a public official and the public authority is established within its territory.*

Or. en

### **Amendment 115**

#### **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, **3a** and 4 which have been committed outside its territory, where:



## Amendment 116

### 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*

Or. en

## Amendment 117

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

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

## Amendment 118

### Proposal for a directive Article 12 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

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

Where an offence referred to in Articles 3, **3a** 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/JHA<sup>59</sup>, be referred to

2009/948/JHA<sup>59</sup>, be referred to Eurojust.

Eurojust.

*Where an offence referred to in the Articles 3, 3a, 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 12a, in order to prevent a damage to the environment or the further deterioration of an existing damage affecting that Member State.*

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<sup>59</sup> 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).

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<sup>59</sup> 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).

Or. en

## Amendment 119

### 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), (da), (db) and (dc)**, 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.

Or. en

## **Amendment 120**

### **Proposal for a directive Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 12a**

##### ***National Fund for victims' compensation and environment's restoration***

- 1. Member States shall establish a national fund for the compensation of 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.***
- 2. The fund provided for in paragraph 1 shall also be dedicated to the financing of environmental and ecological restoration, besides the restoration's obligations foreseen in Articles 5 and 7 of this Regulation.***
- 3. The fund shall be financed inter alia through 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.***

Or. en

## **Amendment 121**

### **Proposal for a directive Article 13 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall take the necessary measures to ensure that

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.

protection granted under Directive (EU) 2019/1937, is applicable to persons reporting criminal offences referred to in Articles 3, **3a** and 4 of this Directive.

Or. en

## Amendment 122

### 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 persons reporting offences referred to in Articles 3, **3a** 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.

Or. en

## Amendment 123

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

#### *Text proposed by the Commission*

#### *Amendment*

**2a. The Commission shall create a platform to enable persons to report environmental offences anonymously. 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.**

Or. en

## Amendment 124

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## Amendment 125

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

*Text proposed by the Commission*

*Amendment*

**2c. 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.**

Or. en

## Amendment 126

### 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

Or. en

## Amendment 127

### 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, **3a** and 4, for instance as a civil party.

Or. en

## Amendment 128

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

*Text proposed by the Commission*

*Amendment*

***Member States shall ensure that, in the absence of identifiable victims, 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, 3a and 4, as well as non-governmental organisations promoting the protection of the environment, can be entitled to bring actions before the courts for environmental and ecological restoration.***

Or. en

## Amendment 129

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

*Text proposed by the Commission*

*Amendment*

***Member States shall take all the appropriate measures to facilitate access to justice and ensure procedural rights to the members of the public concerned and non-governmental organisations, including access to legal aid. Member States can make use of the resources of the Fund provided for in Article 12a to this purpose.***

Or. en

### **Amendment 130**

#### **Proposal for a directive Article 15 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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.

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, ***including authorities competent for the investigation and prosecution of environmental crime, 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.***

Or. en

## Amendment 131

### Proposal for a directive Article 16 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

***Member States shall establish specialised bodies, as specialised units within the law enforcement authorities as well as specialised judicial authorities, with primary competence to detect, investigate, prosecute and adjudicate environmental offences, and equip those bodies with the necessary resources to perform their functions.***

Or. en

## Amendment 132

### 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

*Amendment*

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



staff and authorities.

*on the investigation and prosecution of transnational environmental crime, and its link with other forms of serious crimes, shall receive a particular attention.*

Or. en

### **Amendment 133**

#### **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, such as those which are used in organised crime, **financial crime, corruption**, or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3, **3a**, and 4. **Member states shall ensure that, when investigating or prosecuting the offences referred to in Articles 3, 3a, and 4, their authorities establish contacts and consultations with the competent authorities of other Member States affected and with Eurojust, coordinate their actions, exchange information, and use appropriate judicial cooperation instruments. Member States shall ensure that, when investigating and prosecuting the offences referred to Articles 3, 3a, and 4 that are relevant to the EPPO's competences, their national authorities shall inform the EPPO and, where appropriate, associate it with their activities concerning cross-border cases.**

Or. en

### **Amendment 134**

#### **Proposal for a directive Article 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 18a***

***European Public Prosecutor Office  
extension of competences***

***The Commission shall produce a report, within the framework of Article 119 of Regulation 2017/1939, on the possibility of extending the powers of the European Public Prosecutor's Office provided for in Article 86 of the Treaty on the Functioning of the European Union to include serious environmental 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. The European Public Prosecutor's Office would thus be empowered to request independent investigations and to initiate legal proceedings in respect of environmental damage and environmental crime on a European scale.***

Or. en

**Amendment 135**

**Proposal for a directive  
Article 19 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) fostering the establishment of specialised law enforcement and judicial authorities competent for environmental offences, as foreseen in Article 16;***

Or. en

## Amendment 136

### 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,

Or. en

## Amendment 137

### 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. The European Commission, in cooperation with the European networks of practitioners, shall regularly issue guidelines in order to assist the Member States and their authorities in proper and harmonised implementation of the Directive. These shall include guidelines to define, in accordance with national and European environmental law, the elements provided for in paragraphs 3 to 5 of Article 3, that shall be published within 18 months from the entry into force of this Directive.***

### Amendment 138

#### 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***;

Or. en

### Amendment 139

#### 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 Regulation***;

Or. en

### Amendment 140

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

*Text proposed by the Commission*

*Amendment*

***(ba) the number of environmental crime case prosecuted and adjudicated;***

### Amendment 141

#### 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;

Or. en

### Amendment 142

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

### Amendment 143

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## Amendment 144

### Proposal for a directive

#### Article 21 – paragraph 2 – point g a (new)

*Text proposed by the Commission*

*Amendment*

**(ga) the number of court cases ended due to the expiration of the limitation period;**

Or. en

## Amendment 145

### 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.**

Or. en

## Amendment 146

### Proposal for a directive

#### Article 25 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Commission shall by [OP – please insert the date - **two years** after the transposition period is over], submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the

1. The Commission shall by [OP – please insert the date - **one year** 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.

necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.

Or. en

## Amendment 147

### 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 15 to 17, 19 and 20.

Or. en

## Amendment 148

### 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 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.

Or. en