



2021/0422(COD)

12.10.2022

**\*\*\*I**

## **DRAFT REPORT**

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

Committee on Legal Affairs

Rapporteur: Antonius Manders

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	39



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0851),
  - having regard to Article 294(2) and Article 83(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0466/2021),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A9-0000/2022),
1. Adopts its position at first reading hereinafter set out;
  2. Approves its statement annexed to this resolution;
  3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

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

##### **Recital 1**

*Text proposed by the Commission*

(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment.

*Amendment*

(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment. ***Therefore, the environment, in a wide sense of the term, should be***

*protected. Such protection should encompass all environmental media, such as air, water, soil, wild fauna and flora, including habitats, as well as services provided by natural resources.*

Or. en

## Amendment 2

### Proposal for a directive Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

*(1 a) According to Article 191(2) of the Treaty on the Functioning of the European Union (TFEU), Union policy on the environment is to be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.*

Or. en

## Amendment 3

### Proposal for a directive Recital 2

*Text proposed by the Commission*

*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. Such offences pose a threat to the environment and therefore call for an appropriate and effective response.

(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, ***requiring effective cross-border cooperation***. Such offences pose a threat to the environment and therefore call for an

appropriate and effective response.

Or. en

#### Amendment 4

##### Proposal for a directive Recital 4

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

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

###### *Amendment*

(4) The effective **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 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.

Or. en

#### Amendment 5

##### Proposal for a directive Recital 8

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

(8) A conduct should be considered unlawful also when it is carried out under an authorisation by a competent authority in a Member State if such authorisation was obtained fraudulently, or by corruption, extortion **or** coercion. Moreover, operators should take the necessary steps to comply with the legislative, regulatory and administrative

###### *Amendment*

(8) A conduct should be considered unlawful also when it is carried out under an authorisation by a competent authority in a Member State if such authorisation was obtained fraudulently, or by corruption, extortion, coercion, **or by any other unlawful conduct**. Moreover, operators should take the necessary steps to comply with the legislative, regulatory and

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.

administrative provisions concerning the protection of environment applicable when they carry out the respective activity, including by complying with their obligations, as laid down in applicable EU and national laws, in procedures governing amendments or updates to existing authorisations.

Or. en

## Amendment 6

### Proposal for a directive

#### Recital 9

*Text proposed by the Commission*

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

*Amendment*

**deleted**

Or. en

## Amendment 7

### Proposal for a directive

#### Recital 10

*Text proposed by the Commission*

(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union

*Amendment*

(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union



legislation falling within the scope of criminal offences defined under this Directive, when the obligations under Union law remain unchanged in substance. However, when new legal instruments prohibit new conduct harmful to the environment, this Directive should be **amended** in order to add to the categories of criminal offences also the new serious breaches of Union environmental law.

legislation falling within the scope of criminal offences defined under this Directive, when the obligations under Union law remain unchanged in substance. However, when new legal instruments prohibit new conduct harmful to the environment, this Directive should be **revised as soon as possible** in order to add to the categories of criminal offences also the new serious breaches of Union environmental law, **thereby progressing more towards a Union Environmental Penal Code, which is necessary as environmental crime often has a cross-border dimension.**

Or. en

## Amendment 8

### Proposal for a directive Recital 11

#### *Text proposed by the Commission*

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

#### *Amendment*

(11) Qualitative and quantitative thresholds used to define environmental criminal offences should be clarified by providing a non-exhaustive list of circumstances which should be taken into account, **where relevant**, when assessing such thresholds by authorities which **detect**, 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 **detection**, investigation, prosecution or adjudication of criminal offences excessively difficult.

Or. en

## Amendment 9

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

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

#### *Amendment*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions **or measures** are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should therefore **be** 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.

Or. en

## Amendment 10

### 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

#### *Amendment*

(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.

achieve its objectives. ***The seriousness of the conduct and the*** financial situation of legal persons should be taken into account to ensure the ***proportionality and*** dissuasiveness of the sanction imposed.

Or. en

## **Amendment 11**

### **Proposal for a directive Recital 15 a (new)**

*Text proposed by the Commission*

*Amendment*

***(15 a) It is important to proceed quickly with the establishment of robust Union rules for comprehensive due diligence. It is necessary to ensure that companies active in the internal market contribute to sustainable development and the transition of economies and societies to a sustainable model, through identification, prevention and mitigation measures, that bring to an end and minimise the risk of potential or actual adverse human rights or environmental impacts connected with companies' own operations, subsidiaries and supply chains. In this context, the issue of liability should be properly tackled and due account should be taken of each company's efforts, insofar as they relate directly to the damage in question, to comply with any remedial action required, any investments made and any targeted support provided, as well as any collaboration with other entities to address adverse impacts in its supply chains.***

Or. en

## Amendment 12

### Proposal for a directive Recital 16

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 13

### Proposal for a directive Recital 17

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 14

### Proposal for a directive Recital 18 a (new)

*Text proposed by the Commission*

*Amendment*

***(18 a) Notwithstanding the benefits of this Directive in improving legal coherence at Union level, the Union is still faced with regulatory fragmentation in this area and a lack of uniformity in legal and practical terms. The differences in implementation and application of Union rules regarding environmental crime and liability means there is an absence of a level playing field for Union industry at present, and as a result the proper functioning of the internal market is being impaired. The Commission should, therefore, consider complementing this Directive with other policy fields, which could be fully harmonised by means of a regulation.***

Or. en

## Amendment 15

### Proposal for a directive Recital 18 b (new)

*Text proposed by the Commission*

*Amendment*

***(18 b) In line with improving legal coherence at Union level and in order to ensure legal certainty, the Commission should, when necessary, propose to update the list of environmental criminal offences and corresponding new definitions set out in this Directive regularly.***

## Amendment 16

### Proposal for a directive

#### Recital 22

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

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

##### *Amendment*

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

Or. en

## Amendment 17

### Proposal for a directive

#### Recital 26

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

(26) ***Since nature cannot represent itself as a victim in criminal proceedings***, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus 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 procedural rules.

##### *Amendment*

(26) For the purpose of effective ***environmental law*** 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 ***through administrative or judicial procedures in respect of offences that contravene provisions relating to*** the environment, within the scope of the Member States' legal framework and subject to the relevant procedural rules.

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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

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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.

in Environmental Matters.

Or. en

## **Amendment 18**

### **Proposal for a directive Recital 26 a (new)**

*Text proposed by the Commission*

*Amendment*

***(26 a) Comprehensive and effective prevention measures and dissuasive and proportionate criminal sanctions and penalties are important deterrents against environmental damage and environmental crime. In accordance with the principle that the polluter should pay, the polluter should bear the full costs of the environmental harm that it has caused. In addition, the revenues generated by targeted fines should be used to contribute to the cost of preventative measures, specialised training, investigative tools, and the funding of resources to detect, investigate, prosecute or adjudicate on environmental crime offences.***

Or. en

## **Amendment 19**

### **Proposal for a directive Recital 26 b (new)**

*Text proposed by the Commission*

*Amendment*

***(26 b) As a preventative measure, legal persons are encouraged to appoint an environmental compliance officer, to be in charge of record-keeping for the purpose of providing administrative or judicial authorities with information, for possible discovery procedures or***

*subpoenas, to identify offenders and non-offenders. The appointment of an environmental compliance officer is considered a mitigating factor when legal persons are held liable for offences committed.*

Or. en

## **Amendment 20**

### **Proposal for a directive Recital 27**

#### *Text proposed by the Commission*

(27) Lack of resources and enforcement powers for national authorities which detect, investigate, prosecute or adjudicate environmental criminal offences creates obstacles for the effective prevention and punishment of environmental crimes. In particular, the shortage of resources is capable of preventing authorities from taking any action at all or limiting their enforcement actions, allowing offenders to escape liability or to receive punishment does not correspond to the gravity of the offence. Therefore, minimum criteria concerning resources and enforcement powers should be established.

#### *Amendment*

(27) Lack of resources and enforcement powers for national **authorities and other relevant** authorities which detect, investigate, prosecute or adjudicate environmental criminal offences creates obstacles for the effective prevention and punishment of environmental crimes. In particular, the shortage of resources is capable of preventing authorities from taking any action at all or limiting their enforcement actions, allowing offenders to escape liability or to receive punishment does not correspond to the gravity of the offence. Therefore, minimum criteria concerning resources and enforcement powers should be established.

Or. en

## **Amendment 21**

### **Proposal for a directive Recital 30**

#### *Text proposed by the Commission*

(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal

#### *Amendment*

(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal



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

law measures, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. Following the applicable rules, Member States should also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European **Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO)**. *The EPPO should act and take the lead as the independent public prosecution office of the European Union, in cases of cross-border environmental damage and environmental crimes, and should actively combat such crimes. If necessary, competences need to be enhanced.*

Or. en

## Amendment 22

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 23

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

*Text proposed by the Commission*

(a) Union legislation, which ***irrespective of its legal basis contributes to the pursuit of*** the objectives of Union policy of protecting the environment as set out in the Treaty on the Functioning of the European Union;

*Amendment*

(a) Union legislation, which ***aims to*** pursue the objectives of Union policy of protecting the environment as set out in the Treaty on the Functioning of the European Union;

Or. en

**Amendment 24**

**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 affected or likely to be affected by the offences referred to in Articles 3 or 4. For the purposes of this definition, non-governmental organisations promoting the protection of the environment and meeting any requirements under national law shall be deemed to have an interest;

Or. en

**Amendment 25**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(5 a) 'environmental damage' has the meaning laid down in Article 2 of Directive 2004/35/CE, which also covers any adverse effect on environmental media, such as air, water and soil, which***

*is detrimental to everything that grows, blooms, and lives.*

Or. en

## Amendment 26

### 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, ***the use of*** which, in breach of a prohibition or another ***official*** requirement, ***results in discharge, emission or introduction of a quantity of materials or substances into the air, water or soil,*** ***which*** 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;

Or. en

## Amendment 27

### Proposal for a directive

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 28

### Proposal for a directive

#### Article 3 – paragraph 1 – point j

*Text proposed by the Commission*

(j) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom<sup>46</sup>, Council Directive 2014/87/Euratom<sup>47</sup> or Council Directive 2013/51/Euratom<sup>48</sup>, **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>46</sup> Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1–73).

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

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

*Amendment*

(j) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom<sup>46</sup>, Council Directive 2014/87/Euratom<sup>47</sup> or Council Directive 2013/51/Euratom<sup>48</sup>, **and when such an activity** 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>46</sup> Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1–73).

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

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

Or. en

## Amendment 29

### 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 ***within the meaning of Directive 2000/60/EC*** 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. en

## Amendment 30

### Proposal for a directive

#### Article 3 – paragraph 1 – point l

*Text proposed by the Commission*

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC<sup>49</sup> and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>50</sup>, except for cases where the conduct concerns a negligible quantity of such specimens;

*Amendment*

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC<sup>49</sup> and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>50</sup>, except for cases where the conduct concerns a negligible quantity of such specimens ***and does not affect the natural environment of such species to a considerable degree and does not pose a danger to efforts to stabilise their population;***

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

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

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

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

Or. en

## Amendment 31

### Proposal for a directive

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

*Text proposed by the Commission*

(p) *introduction or spread* of invasive alien species of Union concern when:

*Amendment*

(p) *bringing into the territory of the Union, placing on the market, keeping, breeding, transport, use, exchange, permitting to reproduce, grow or cultivate, releasing into the environment or spreading* of invasive alien species of Union concern when *the conduct is in breach of restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council<sup>53a</sup>*;

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<sup>53a</sup> *Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).*

Or. en

## Amendment 32

### Proposal for a directive

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

*Text proposed by the Commission*

(i) *the conduct breaches restrictions set out in Article 7(1) of Regulation (EU)*

*Amendment*

*deleted*

*No 1143/2014 of the European Parliament and of the Council*<sup>53</sup> ;

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<sup>53</sup> *Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).*

Or. en

### Amendment 33

**Proposal for a directive**  
**Article 3 – paragraph 1 – point p – point ii**

*Text proposed by the Commission*

*Amendment*

*(ii) the conduct breaches a condition of permit issued under Article 8 or of authorisation granted under Article 9 of Regulation (EU) No 1143/2014 and causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;*

*deleted*

Or. en

### Amendment 34

**Proposal for a directive**  
**Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

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

### Amendment 35

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

### Amendment 36

#### 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 **and procedures** to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties **in swift proceedings**.

Or. en

### Amendment 37

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

*Text proposed by the Commission*

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

*Amendment*

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



*licences;*

Or. en

### **Amendment 38**

#### **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 and 4 where such offences have been committed for their benefit by any person who has a **relevant** leading position within the legal person, acting either individually or as part of an organ of the legal person, based on:

Or. en

### **Amendment 39**

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

#### **Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

### **Amendment 40**

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

#### **Article 6 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) an authority to take decisions on behalf of the legal person;

*Amendment*

(b) an authority to take **relevant** decisions on behalf of the legal person;

## Amendment 41

### Proposal for a directive Article 6 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4, ***especially in cases in which corporate board members are aware, or should have been aware, of activities with a high risk of causing environmental damage.***

Or. en

## Amendment 42

### 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 ***criminal or non-criminal sanctions and measures.***

Or. en

## Amendment 43

### 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 **held** liable pursuant to Article 6(1) for the offences referred to in Articles 3 and 4 shall include ***criminal and non-criminal sanctions and measures such as:***

Or. en

**Amendment 44**

**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, ***provided that the damage is reversible, or, where the damage is irreversible, the obligation to pay compensation for the damage to the environment;***

Or. en

**Amendment 45**

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

*Text proposed by the Commission*

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

*Amendment*

***deleted***

Or. en

## Amendment 46

### Proposal for a directive Article 7 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 47

### 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) points (a) to (j), (n), (q), (r) are punishable by fines, the maximum limit of which shall be not less than **10%** of the ***average*** worldwide turnover of the legal person in the ***three*** business ***years*** preceding the fining decision.

Or. en

## Amendment 48

### 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),

*Amendment*

5. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) points (k), (l),

(m), (o), (p) are punishable by fines, the maximum limit of which shall be not less than **3%** of the **total** worldwide turnover of the legal person *[undertaking]* in the business **year** preceding the fining decision.

(m), (o), (p) are punishable by fines, the maximum limit of which shall be not less than **10%** of the **average** worldwide turnover of the legal person in the **three** business **years** preceding the fining decision.

Or. en

## Amendment 49

### 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 **has previously been convicted of offences of the same nature under Article 3 or 4**;

Or. en

## Amendment 50

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

*Text proposed by the Commission*

(j) the offender actively obstructs inspection, custom controls or investigation activities, or intimidates or interferes with witnesses or complainants.

*Amendment*

(j) the offender actively obstructs inspection, custom controls or investigation activities, or intimidates or interferes with witnesses or complainants;

Or. en

## Amendment 51

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

*Text proposed by the Commission*

*Amendment*

***(j a) the offence was committed in the form of a cyberattack within the framework of Council Regulation (EU)2019/796;***

Or. en

## **Amendment 52**

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

*Text proposed by the Commission*

*Amendment*

***(j b) the offence was committed within a protected area, such as an area under Natura 2000;***

Or. en

## **Amendment 53**

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

*Text proposed by the Commission*

*Amendment*

***(j c) the offence was committed in relation to other criminal offences;***

Or. en

## **Amendment 54**

**Proposal for a directive  
Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the offender restores nature to its

(a) the offender restores nature to its

previous condition;

previous condition *before being convicted*;

Or. en

## Amendment 55

### Proposal for a directive

#### Article 9 – paragraph 1 – point a a (new)

*Text proposed by the Commission*

*Amendment*

*(a a) the offender took action to minimize the impact and extent of the damage resulting from the crime before being convicted;*

Or. en

## Amendment 56

### 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 offences as referred to in this Directive.

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>, **all** the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offences as referred to in this Directive.

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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 57

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

Or. en

## Amendment 58

### Proposal for a directive Article 11 – paragraph 2 – point b

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 59

### 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

*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, for a period of at least four years from the time when the offence was



*committed*, when offences are punishable.

*discovered*, when offences are punishable.

Or. en

## **Amendment 60**

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

*Text proposed by the Commission*

*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.*

*deleted*

Or. en

## **Amendment 61**

### **Proposal for a directive Article 12 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

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

(d) the offender is one of its nationals or habitual residents *or a company based in a Member State.*

Or. en

## **Amendment 62**

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

*Text proposed by the Commission*

*Amendment*

2. Member States shall take the necessary measures to ensure that persons

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.

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 ***in accordance with their national legal system.***

Or. en

### **Amendment 63**

#### **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 ***the possibility to act through administrative or judicial procedures*** concerning ***criminal*** offences referred to in Articles 3 and 4, for instance as a civil party. ***Where appropriate, direct victims of the criminal offences referred to in Article 3 or 4 or representatives of direct victims shall have the possibility of applying to a Court to have the administrative or judicial proceedings dealt with together.***

Or. en

### **Amendment 64**

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

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

Member States shall take appropriate action, such as information and awareness-raising campaigns and research and education programmes, to reduce overall

##### *Amendment*

***Given the importance of prevention as the first step in avoiding environmental damage,*** Member States shall take appropriate action, such as information and

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.

awareness-raising campaigns and research and education programmes, to reduce overall environmental criminal offences, raise public awareness and **seriously** reduce the risk of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders.

Or. en

## Amendment 65

### 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 or other relevant** 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.

Or. en

## Amendment 66

### 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

#### *Amendment*

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall **ensure that specialised training is provided to** 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.

investigations *in* regular intervals with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.

Or. en

## Amendment 67

### 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 *countering* organised crime or other serious crime cases, are *effective, proportionate to the crime committed and* available for investigating or prosecuting offences referred to in Articles 3 and 4.

Or. en

## Amendment 68

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 69

### Proposal for a directive Article 21 – paragraph 2 – point h

*Text proposed by the Commission*

(h) the types and levels of sanctions imposed for environmental crime, ***including per categories of environmental offences according to Article 3.***

*Amendment*

(h) the types and levels of sanctions imposed for environmental crime.

Or. en

## **Amendment 70**

### **Proposal for a directive Article 21 – paragraph 5**

*Text proposed by the Commission*

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.

*Amendment*

5. The Commission shall ***at least every two years*** 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.

Or. en

## **Amendment 71**

### **Proposal for a directive Article 25 – title**

*Text proposed by the Commission*

Evaluation ***and*** reporting

*Amendment*

Evaluation, reporting ***and review***

Or. en

## **Amendment 72**

### **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 – **three** years after the transposition period is over] **and every two years thereafter**, the Commission shall carry out an evaluation of the impact of this Directive **and on the need to update the list of environmental criminal offences** 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. **The report shall be accompanied by a legislative proposal, if necessary.**

Or. en

## EXPLANATORY STATEMENT

The rapporteur welcomes the Commission's proposal for a Directive on the protection of the environment through criminal law and replacing Directive 2008/99/EC.

Directive 2008/99/EC introduced an important principle to the Environmental Union legal framework that environmental crimes should be combatted and the offenders punished for them in all of the EU Member States. This was an essential element in making sure that the polluter pays principle is respected and the EU environmental acquis is followed.

The Directive, despite the good intentions, has not delivered on all of its goals. It has not been revised until now and the Commission's evaluation in 2020 showed fundamental problems in the application of the Directive across the Member States. Among the main issues, the Commission enumerated:

- lack of comprehensive data on environmental crimes;
- lack of clarity with regard to certain legal terms;
- significant differences in sanctions applied by Member States, including accessory sanctions and sanctions for legal persons;
- lack of flexibility in adapting the scope of the Directive;
- shortcomings in the cross-border cooperation, including deficiencies in awareness among public prosecutors and judges.

These issues also resulted in a lack of uniformity in legal and practical terms and differences in implementation and application of Union rules regarding environmental crime. This caused an unequal level playing field and impaired the proper functioning of the internal market. Therefore, the Commission's proposal for a Directive on the protection of the environment through criminal law is very timely. The rapporteur proposes to address the lack of uniformity by calling for further harmonisation and considerations to complement this Directive with other policy fields, such as fully uniformity by means of a regulation.

The existing problems in effective combatting environmental crimes created incentives in most of the Member States for offenders to circumvent EU or national legal provisions concerning environmental protection as the risk of conviction was low and sanctions often did not have the deterrent effect. Moreover, environmental crimes are frequently linked with organised criminal activities of cross-border dimension, such as illicit waste shipment or trade in protected species. For example, the annual revenue of illicit waste market is estimated between 4 billion euros and 15 billion euros .

The rapporteur therefore proposes to:

- improve the effectiveness of investigations and prosecution of environmental crimes;
- clarifying relevant legal terms;
- improve the collection of data;
- ensure effective, dissuasive and proportionate sanction types and levels;
- strengthen prevention measures.

The rapporteur proposes to achieve this, inter alia, by raising fines for legal persons, so that the maximum limit is not less than 10 percent of the average worldwide turnover of the legal person in the last three business years, which is more in line with EU Competition Law. In addition, the rapporteur proposes to extend the limitation periods for environmental criminal

offences, as it is often difficult to discover within a shorter period the committed crimes and the extent and harmful consequences thereof.

Furthermore, in line with Article 191(2) of the Treaty on the Functioning of the European Union, the precautionary principle applies to Union policy on the environment and prevention is key. Important deterrents against environmental crime are comprehensive and effective prevention measures and dissuasive and proportionate criminal sanctions and penalties. The polluter should pay and bear the full costs of the environmental harm caused. The rapporteur proposes that the polluter pays targeted fines, which in part contribute to preventative measures. This makes it possible for one environmental crime that is committed to prevent other environmental crimes.

It is also important to create more awareness about environmental crime and damage worldwide. This is necessary as the globalisation of business activities means that, for example, EU based companies could be involved in criminal activities outside the territory of the Union. Highlighting the active work by the United Nations, such as the efforts on strengthening the legal framework by including a definition of ecocide, is essential.

The rapporteur is confident that through a strong position of the European Parliament this Directive will lead to the effective combatting of environmental crimes on EU and international level, leading to the desired prevention of environmental damage and strengthening of an equal level playing field for Union industry.