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*Plenary sitting*

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**A9-0087/2023**

28.3.2023

**\*\*\*I**  
**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.

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## 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 opinions of the Committee on Development, of the Committee on the Environment, Public Health and Food Safety, of the Committee on Civil Liberties, Justice and Home Affairs and of the Committee on Petitions,
  - having regard to the report of the Committee on Legal Affairs (A9-0087/2023),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. 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

*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.

ensuring a high level of protection and improvement of the quality of the environment. ***The environment should be protected in a wide sense covering all natural resources - air, water, soil, wild fauna and flora, including habitats - as well as services provided by natural resources, promoting measures at international level to deal with regional or worldwide environmental problems.***

## Amendment 2

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

*Text proposed by the Commission*

*Amendment*

***(1a) 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. Considering that the impact of environmental crime affects also human rights, the fight against environmental crime should be a priority at Union level in order to ensure the protection of these rights.***

## 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

(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.

beyond the borders of the Member States in which the offences are committed. ***In just a few decades, environmental crime has become the fourth largest criminal sector in the world, growing two to three times faster than the global economy<sup>1a, 1b</sup> and is now as lucrative as drug trafficking<sup>1c</sup>.*** Such offences pose a threat to the environment and therefore call for a ***proportionate***, appropriate and effective response, ***requiring effective cross-border cooperation***.

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<sup>1a</sup> ***INTERPOL-UN Environment (2016), Strategic Report: Environment, Peace and Security, A Convergence of Threats.***

<sup>1b</sup> ***UNEP (2018), The State of knowledge of crimes that have serious impacts on the environment.***

<sup>1c</sup> ***Eurojust (2021), Rapport sur le travail d'Eurojust sur les crimes environnementaux.***

#### Amendment 4

##### 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.

*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. Compliance should be strengthened by the availability of ***appropriate*** criminal penalties ***that are sufficiently dissuasive and commensurate with the seriousness of the offences***, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties. ***In many Member States environmental offences do not fall within***

*the framework of criminal law.  
Environmental criminal law should  
become a tool that is separate from  
administrative law and that complements  
such law to prevent unlawful conduct that  
damages the environment and that serves  
to deter such conduct.*

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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).

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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 5

### 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 ***targeted*** additional categories of offences based ***only*** on the most serious breaches of Union environmental law should be added. ***The Commission should carry out regular evaluations of the impact of this Directive and on the need to update the list of environmental criminal offences provided for in this Directive.*** Provisions on sanctions ***and penalties*** should be strengthened ***and adapted to the degree of severity and duration of the damage caused*** in order to enhance their deterrent ***and compensatory*** effect as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.



## Amendment 6

### Proposal for a directive Recital 6

*Text proposed by the Commission*

*Amendment*

**(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.**

*deleted*

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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).***

## **Amendment 7**

### **Proposal for a directive Recital 7**

#### *Text proposed by the Commission*

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

#### *Amendment*

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment, ***irrespective of its legal basis***, 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 also when committed with serious negligence. Illegal conduct that causes death or serious ***harm to any person's health***, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly

criminal offence when committed with serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

harmful to the environment constitutes a criminal offence when committed with serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

## Amendment 8

### Proposal for a directive

#### Recital 8

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

(8) A conduct should be considered unlawful also when it is carried out under 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 obtained fraudulently, ***including in situations in which the authorisation holder knew or should have known that the conduct would cause foreseeable substantial environmental or health damage at the time when the authorisation was granted***, or by corruption, extortion, coercion, ***or by any other unlawful conduct. Conduct should also be considered unlawful when it breaches a condition of authorisation. From the moment a conduct becomes unlawful, the perpetrator should not be allowed to invoke the issuance of an authorisation to avoid being held criminally liable.*** Moreover, operators should take the necessary steps to comply with the legislative, regulatory and administrative provisions concerning the protection of environment applicable when they carry out the respective activity, including by complying with their obligations, as laid down in applicable EU and national laws, in procedures governing amendments or updates to existing authorisations.

## Amendment 9

**Proposal for a directive  
Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8a) Despite the growing number of environmental crimes, a harmonised and accepted definition of what constitutes environmental crime does not yet exist at Union and national level. This Directive aims to provide a general framework by laying down an autonomous offence of environmental crime, in addition to the Union-wide common set of specific environmental offences which are defined by reference to breaches of relevant Union environmental sectoral legislation. In line with existing legislation in different national criminal law systems, Member States should criminalise autonomous categories of environmental offences.***

**Amendment 10**

**Proposal for a directive  
Recital 8 b (new)**

*Text proposed by the Commission*

*Amendment*

***(8b) Member States should criminalise the collection, transport, recovery or disposal of drug waste that causes or is likely to cause death or serious harm to any person's health or substantial damage to the quality of air, the quality of soil or the quality of water, or to biodiversity, ecosystem services and functions, animals or plants. That criminalisation should include the supervision of such operations, the after-care of disposal sites and action taken as a dealer or a broker in relation to waste management. The chemical industry is responsible for knowing where its products end up and how its products are used. In cases where there is reasonable suspicion that products are used illegally, or directly***

*linked to drug criminality, the supply of products should be stopped immediately.*

## **Amendment 11**

### **Proposal for a directive Recital 8 c (new)**

*Text proposed by the Commission*

*Amendment*

**(8c) Legal persons should be understood as not including public international organisations, States or public bodies exercising State authority, unless national law allows for public bodies exercising State authority to be understood as included.**

## **Amendment 12**

### **Proposal for a directive Recital 9**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

## **Amendment 13**

### **Proposal for a directive Recital 10**

*Text proposed by the Commission*

*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

(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.

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 **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, while fully respecting the principles of conferral, subsidiarity and proportionality as laid down in Article 5 TEU, in order to progress towards establishing a Union environmental criminal law code, which is necessary as environmental crime often has a cross-border dimension.**

## Amendment 14

### 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.

## Amendment 15

### 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. ***The involvement of organised crime groups in an environmental offence, or the commission of an offence for the benefit of such groups, 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 exert in preventing and addressing unlawful***

*conduct, the commission of environmental crimes by public officials when performing their duties, or their involvement in such crimes, should be taken into account as an aggravating circumstance when determining the appropriate level of sanction.*

## Amendment 16

### Proposal for a directive

#### Recital 13

*Text proposed by the Commission*

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

*Amendment*

(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence that causes death or serious *harm to any person's health, substantial damage to the quality of air, the quality of soil or the quality of water, or to biodiversity, ecosystem services and functions, animals or plants*, or is likely to cause substantial damage to the environment or is otherwise considered particularly harmful should also constitute a criminal offence when committed intentionally.

## Amendment 17

### 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

*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 potential for reinstatement or restoration of the*



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.

***environment and the costs involved in such reinstatement or restoration.***

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 ***in accordance with national legal systems.*** These should include the obligation to reinstate the environment, exclusion from access to public funding, including tender procedures, grants, concessions *and licences* and withdrawal of permits and authorisations *and making sentences public. In cases where an offender is not in a capacity to reinstate or restore the environment, additional sanctions should be applicable. 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.

## Amendment 18

### 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

*Amendment*

(15) Legal persons should also be held criminally liable for environmental criminal offences according to this Directive, ***when they are perpetrators, instigators or accomplices in offences.*** ***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. ***The severity and nature of the offence in terms of its scale and the***

sanction imposed.

***irreversibility of the damage resulting from the offence as well as the*** financial situation of legal persons should be taken into account to ensure the ***proportionality and*** dissuasiveness of the sanction imposed.

## Amendment 19

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

*Text proposed by the Commission*

*Amendment*

***(15a) It is important to proceed quickly with the establishment of robust Union rules for comprehensive due diligence. Therefore, additional sanctions for legal persons should include the obligation for companies to establish due diligence schemes for enhanced compliance with environmental standards.***

## Amendment 20

### Proposal for a directive Recital 16

*Text proposed by the Commission*

*Amendment*

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious ***injury to, a person***, have been caused and where these elements are not already constituent for the criminal offence, ***these could be considered as aggravating circumstances. Equally***, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be ***an aggravating circumstance because of its severity, including in cases comparable to*** ecocide.

(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 ***a person*** or serious ***harm to any person's health***, have been caused and where these elements are not already constituent for the criminal offence, ***or*** when an environmental criminal offence causes ***destruction or*** substantial and irreversible or long-lasting damage to an entire ecosystem, ***or the offence was committed in a protected area, such as an area under Natura 2000, or in an area where the offence is likely to***

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.

*have a significant effect in view of the conservation objectives for a protected site, these should be aggravating circumstances. When an environmental criminal offence causes severe and widespread, or severe and long-term, or severe and irreversible damage to the quality of air, the quality of soil or the quality of water, or to biodiversity, to ecosystem services and functions, or to animals or plants, such offence should be considered a crime of particular gravity, and sanctioned as such in accordance with the legal systems of the Member States, covering ecocide, for which the United Nations are currently working on an official international 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 **calculated as accurately as possible and** taken into account when determining the appropriate level of sanctioning in the individual case.

## Amendment 21

### 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. ***The competent judicial authorities should be entitled to order the immediate cessation of the unlawful conduct or to impose measures to prevent the execution of such conduct, in order to avert damage to the environment.*** Where offenders have made financial gains, such gains ***and other proceeds and instrumentalities*** should be confiscated ***and appropriately managed, in line with their nature, and, where possible, used to prevent environmental crime, finance restoration of the***

*environment, remediation of any damage caused and compensation for the damage or harm caused by the unlawful conduct, in accordance with national law.*

## Amendment 22

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

*Text proposed by the Commission*

*Amendment*

*(18a) 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 mean 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. The Commission should also develop guidelines in order to assist the Member States in the preparation of harmonised, effective, dissuasive and proportionate sanctions.*

## Amendment 23

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

*Text proposed by the Commission*

*Amendment*

*(18b) In line with improving legal coherence at Union level and in order to ensure legal certainty, the Commission should, where necessary, propose to*

*update the list of environmental criminal offences and corresponding new definitions set out in this Directive regularly.*

## Amendment 24

### Proposal for a directive Recital 20

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 25

### 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 ***necessary and appropriate*** range of ***prevention methods, criminal penalties and*** sanctions, ***confiscation*** and other measures to address different types of criminal behaviour in a tailored, ***timely, proportionate*** and effective manner.

## Amendment 26

### Proposal for a directive Recital 22 a (new)

***(22a) Legal persons convicted for criminal offenses listed in Articles 3 and 4 of this Directive should be temporarily removed from the Transparency Register established pursuant to the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission. The judicial decisions resulting in such convictions should be made accessible in all the Member States and referred to the Union institutions in charge of the Transparency Register. Therefore, the Union institutions should adapt the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register to allow temporary removal of legal persons convicted for environmental crimes.***

## **Amendment 27**

### **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

*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, human rights 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

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

are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the 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).

## Amendment 28

### Proposal for a directive Recital 25

#### *Text proposed by the Commission*

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

#### *Amendment*

(25) Other **natural or legal** persons may also possess valuable information concerning potential environmental criminal offences. They may **include** members of the community affected, **civil society organisations, including 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 **protection**, support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings.

## Amendment 29

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

*Text proposed by the Commission*

*Amendment*

***(25a) Member States should assess the need to create instruments in accordance with their national legal system to enable persons to report environmental offences anonymously, where such instruments do not yet exist.***

**Amendment 30**

**Proposal for a directive  
Recital 25 b (new)**

*Text proposed by the Commission*

*Amendment*

***(25b) As part of the EU Strategy on victim's rights (2020-2025) the Commission, together with Member States, should work on improving the access of victims to compensation, including victims of environmental crimes. This could include, if necessary, setting up a national fund for victims' compensation which could be financed, inter alia, through fines imposed for environmental offences and compensation for environmental damage provided for in this Directive and, where applicable, possibly through the proceeds derived from and instrumentalities used or intended to be used in the commission, or to contribute to the commission, of the offence, which have been confiscated in accordance with this Directive.***

**Amendment 31**

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



*Text proposed by the Commission*

*Amendment*

***(26a) 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 ‘polluter pay’ principle, the polluter should bear the full costs of the environmental damage 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 offences.***

## **Amendment 32**

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

*Text proposed by the Commission*

*Amendment*

***(26b) 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 actions of an environmental compliance officer, where appropriate, could be a mitigating factor when the officer provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, when legal persons are held liable for offences committed.***

## **Amendment 33**

## 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.

### Amendment 34

## 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

#### *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 **and financial support** as well as a high level of training and specialisation within all relevant competent authorities are necessary. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate environmental crime. To maximise the professionalism and effectiveness of enforcement chain, Member States should also, **where appropriate and in accordance with**

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.

**national law, assign** specialised investigation units, prosecutors and criminal judges to deal with environmental criminal cases **and** provide for specialised chambers of judges. Technical expertise **and financial support** should be made available to all relevant enforcement authorities.

## Amendment 35

### Proposal for a directive Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

**(30a) Given the high financial impact of environmental offences, their potential link with other serious financial crimes, as well as their cross-border nature, the European Public Prosecutor's Office would be best placed to exercise its competences on the most serious environmental crimes with a cross-border dimension. The EPPO's competences being currently limited to financial crimes, the Commission should precise in a report the possibility for an extension of the competences of the EPPO in cooperation with Eurojust to include serious cross-border environmental crimes, and the arrangements for such an extension.**

## Amendment 36

### Proposal for a directive Recital 32

*Text proposed by the Commission*

*Amendment*

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the

efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission relevant statistical data on environmental offences. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission, **and make available online to the public**, relevant statistical data on environmental offences, **in particular specifying the sanctions imposed on the offenders. At Union level**, the Commission should regularly assess and publish the results based on the data transmitted by the Member States.

### Amendment 37

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

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

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

##### *Amendment*

This Directive establishes minimum rules concerning the definition of **environmental** criminal offences and sanctions, **as well as concerning the measures, means and resources necessary to prevent and combat environmental crime and to properly enforce the Union's environmental law**, in order to protect the environment more effectively.

### Amendment 38

#### Proposal for a directive Article 2 – paragraph 1 – point 1 – subparagraph 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 **law** which contributes to the pursuit the objectives of Union policy of protecting the environment as set out in the Treaty on the Functioning of the European Union;

## Amendment 39

### Proposal for a directive

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 40

### Proposal for a directive

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 41

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

**(1a) ‘severe’, for the purpose of Article 3 paragraph 1a, in relation to damage, means that such damage involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural resources;**

## Amendment 42

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

*Text proposed by the Commission*

*Amendment*

**(1b)** **‘widespread’, for the purpose of Article 3 paragraph 1a, in relation to damage, means that such damage extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;**

**Amendment 43**

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

*Text proposed by the Commission*

*Amendment*

**(1c)** **‘long-term’, for the purpose of Article 3 paragraph 1a, in relation to damage, means that such damage cannot be redressed through natural recovery within a reasonable period of time;**

**Amendment 44**

**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, except for States or public bodies exercising State authority and for public international organisations, ***unless national law allows for public bodies exercising State authority to be included;***

**Amendment 45**

**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, persons having a sufficient interest or maintaining the impairment of a right as well as ***civil society organisations, including*** 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 46**

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

*Text proposed by the Commission*

*Amendment*

***(5a) ‘environmental damage’ means serious harm to any person’s health, or substantial damage to the quality of air, the quality of soil or the quality of water, or to biodiversity, ecosystem services and functions, animals or plants, which is detrimental to anything that grows, blooms and lives, including but not limited to the damage as referred to in Article 2 of Directive 2004/35/CE;***

**Amendment 47**

**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,

*Amendment*

(a) the discharge, emission or introduction of a quantity of materials or substances, ***energy***, or ionising radiation

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;

into air, soil or water which causes or is likely to cause death or serious ***harm*** to any ***person's health*** or substantial damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions***, animals or plants;

## Amendment 48

### 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 ***or illegal trade, including online***, of a product, ***the use of*** which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious ***harm*** to any ***person's health*** or substantial damage to ***the quality of air, the quality of soil or the quality of water***, or to ***biodiversity, ecosystem services and functions, or*** animals or plants as a result of the product's use on a larger scale;

## Amendment 49

### 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, import to and export from the Union*** market, ***including online***, or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

## Amendment 50

### Proposal for a directive

#### Article 3 – paragraph 1 – point c – subparagraph 2



*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 serious ***harm*** to any ***person's health*** or substantial damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions***, animals or plants;

## **Amendment 51**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(ca) any conduct in breach of the Regulation (EU) 2017/852 of the European Parliament and of the Council<sup>1a</sup>;***

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***<sup>1a</sup> Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008 (OJ L 137, 24.5.2017, p. 1).***

## **Amendment 52**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(cb) the deliberate release into the environment of, cultivation of and placing on the market of genetically modified organisms where such activities are illegal under Directive 2001/18/EC of the European Parliament and of the Council, Regulation (EC) No 1829/2003 of the European Parliament and of the Council and Directive 2009/41/EC of the European Parliament and of the Council and where such activities cause or are***

*likely to cause substantial damage to the quality of air, the quality of soil or the quality of water or to biodiversity, ecosystem services and functions, animals or plants;*

## Amendment 53

### Proposal for a directive

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 54

### Proposal for a directive

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

*Text proposed by the Commission*

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or serious **injury** to any **person** or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

*Amendment*

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

## Amendment 55

### 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

*Amendment*

(h) the ship-source discharges of polluting substances **as defined 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;

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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).

**3(8) of Directive 2008/56/EC 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 **minor** cases, where the ship-source discharge does not cause deterioration in the quality of water **or the marine environment**, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water **or the marine environment**;

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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).

## Amendment 56

### 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

#### *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 or serious **harm** to any **person's health** or substantial damage to the quality of air, the quality of soil or the quality of water, or to

plants;

***biodiversity, ecosystem services and functions***, 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).

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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>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).

<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).

## **Amendment 57**

### **Proposal for a directive Article 3 – paragraph 1 – point j**

#### *Text proposed by the Commission*

#### *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>, 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;

(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> or Council Directive 2013/51/Euratom<sup>48</sup>, which causes or is likely to cause death or serious **harm** to any person's health or substantial damage to the quality of air, the quality of soil or the quality of water, or to **biodiversity, ecosystem services and functions**, animals or plants;

<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).

<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>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 58

### Proposal for a directive

#### Article 3 – paragraph 1 – point k

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

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

##### *Amendment*

(k) the abstraction of surface water or groundwater ***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;

## Amendment 59

### Proposal for a directive

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

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

(l) the killing, destruction, taking of,

##### *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;

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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).

## Amendment 60

### 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,

possession, sale or offering for sale, ***including online***, of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 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 habitats 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).

<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).

#### *Amendment*

(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> ***and imports of specimens of such species, parts or derivatives thereof listed in Annex C of that Regulation;***

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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).

p. 1).

## Amendment 61

### Proposal for a directive

#### Article 3 – paragraph 1 – point n

*Text proposed by the Commission*

(n) the placing or making available on the Union market ***of illegally harvested timber or of timber products that were made of illegally harvested wood***, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council<sup>52</sup>, except for cases where the conduct concerns a negligible quantity; ***[If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.]***

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

*Amendment*

(n) the placing or making available on the Union market ***and the export from the Union, including through online means, of relevant commodities or relevant*** products, falling within the scope of Regulation (EU) .../... of the European Parliament and of the Council<sup>+</sup>, ***where the conditions referred to in Article 3 of that Regulation for such placing or making available on the market, or such export, are not met***, except for cases where the conduct concerns a negligible quantity;

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<sup>\*</sup> Regulation (EU) .../... of the European Parliament and of the Council of ... on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (OJ ...).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation contained in document PE- CONS 82/22 (2021/0366(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

## Amendment 62

**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;

*Amendment*

(o) any conduct which causes the deterioration of a habitat within a ***special area of conservation as referred to in*** Article 6(2) of the Directive 92/43/EEC, ***or of a habitat of a species in accordance with Regulation (EU) .../... of the European Parliament and of the Council***<sup>+</sup>, when this deterioration is significant;

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***\* Regulation (EU) .../... of the European Parliament and of the Council of ... on nature restoration (OJ ...).***

***+ OJ: Please insert in the text the number of the Regulation contained in document PE- CONS .../... (2022/0195(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.***

**Amendment 63**

**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 or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, ***biodiversity, ecosystem services and functions***, or to animals or plants;

**Amendment 64**



**Proposal for a directive**  
**Article 3 – paragraph 1 – point q**

*Text proposed by the Commission*

(q) production, placing on the market, import, export, use, emission or release of ozone depleting substances as defined in Article 3 (4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council<sup>54</sup> or of products and equipment containing or relying on such substances;

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<sup>54</sup> Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1–30)

**Amendment 65**

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

*Text proposed by the Commission*

*Amendment*

(q) production, placing on the market, ***including online***, import, export, use, emission or release of ozone depleting substances as defined in Article 3 (4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council<sup>54</sup> or of products and equipment containing or relying on such substances;

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<sup>54</sup> Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1–30)

***(ra) a serious infringement within the meaning of Article 90(1) of Council Regulation (EC) No 1224/2009<sup>55a</sup> and Article 42 of Council Regulation (EC) No 1005/2008<sup>55b</sup>;***

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***<sup>55a</sup> Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006***

*(OJ L 343 22.12.2009, p. 1).*

*<sup>55b</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).*

## **Amendment 66**

### **Proposal for a directive Article 3 – paragraph 1 – point r b (new)**

*Text proposed by the Commission*

*Amendment*

***(rb) any conduct that causes a forest fire or a significant deterioration of more than one hectare of forest;***

## **Amendment 67**

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

*Text proposed by the Commission*

*Amendment*

***(1a) Member States shall ensure that any conduct which causes or is likely to cause death or serious harm to any person's health or substantial damage to the quality of air, the quality of soil or the quality of water, biodiversity, ecosystem services and functions, or to animals or plants constitutes a criminal offence when it is unlawful and committed intentionally. Member States shall ensure that any conduct causing severe and widespread, or severe and long-term, or severe and irreversible damage is treated as an offence of particular gravity and sanctioned as such in accordance with the***

*legal systems of the Member States.*

## **Amendment 68**

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

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 69**

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

*Text proposed by the Commission*

(d) spread of the damage;

*Amendment*

(d) spread of the damage, **including any potential cross-border nature;**

## **Amendment 70**

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

*Text proposed by the Commission*

*Amendment*

**(ea) any financial benefits derived from the damage caused by the perpetrators;**

## **Amendment 71**

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

*Text proposed by the Commission*

*Amendment*

**(eb) the duration of the infringement or**

*non-compliance;*

#### **Amendment 72**

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

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

*Text proposed by the Commission*

*Amendment*

*(ec) the conservation status of the species, populations or habitats, ecosystems and natural resources affected;*

#### **Amendment 73**

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

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

*Text proposed by the Commission*

*Amendment*

*(ed) whether the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA, or is linked to murder, corruption, money laundering, fraud, document counterfeiting, extortion, coercion or other forms of intimidation.*

#### **Amendment 74**

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

##### **Article 3 – paragraph 3 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Member States shall ensure that their national legislation specifies that the offences listed in paragraph 1, points (ca), (cb), (ra) and (rb), are without prejudice to the possibility of excluding from criminal liability conduct which causes or is likely to cause a damage which is, on the basis of the elements referred to in the*

*first subparagraph of this paragraph, not considered to be substantial.*

## **Amendment 75**

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

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 76**

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

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 77**

### **Proposal for a directive Article 3 – paragraph 5 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) the extent to which the regulatory threshold, ***including a hazardousness and toxicity threshold***, value or another

mandatory parameter is exceeded;

## Amendment 78

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 79

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

*Text proposed by the Commission*

(d) the cost of restoration of environmental damage.

*Amendment*

(d) the cost of restoration of environmental damage, ***taking into account the value of the ecosystem service supplied.***

## Amendment 80

### Proposal for a directive Article 3 – paragraph 5 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Member States shall ensure that their national legislation specifies that the offences listed in paragraph 1, points (ca), (cb), (ra) and (rb), are without prejudice to the possibility of excluding from criminal liability conduct concerning quantities determined to be negligible on the basis of the elements referred to in the first subparagraph of this paragraph.***

## Amendment 81

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

*Text proposed by the Commission*

*Amendment*

**5a. Member States shall ensure that from the moment a conduct becomes unlawful, the perpetrator cannot invoke the issuance of an authorisation in order to avoid criminal liability.**

**Amendment 82**

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

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 83**

**Proposal for a directive**  
**Article 4 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 84**

**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 **and appropriate** measures, **including having effective procedures in place**, to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

**Amendment 85**

**Proposal for a directive  
Article 5 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 86**

**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 **(ca), (cb)**, (k), (l), (m), (o), (p), **(ra), (rb)** **and in Article 3(1a)** are punishable by a maximum term of imprisonment of at least four years.

**Amendment 87**

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



*Text proposed by the Commission*

*Amendment*

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

## **Amendment 88**

### **Proposal for a directive**

#### **Article 5 – paragraph 5 – point a**

*Text proposed by the Commission*

*Amendment*

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

(a) obligation to reinstate the environment within a given time period, *or to compensate for the damage caused, if the perpetrator is not in a capacity to carry out such a reinstatement or if the damage is irreversible;*

## **Amendment 89**

### **Proposal for a directive**

#### **Article 5 – paragraph 5 – point b**

*Text proposed by the Commission*

*Amendment*

(b) fines;

(b) fines, *proportionate to the gravity and duration of the damage caused to the environment as well as to the financial benefits accrued by committing the offence;*

## **Amendment 90**

### **Proposal for a directive**

#### **Article 5 – paragraph 5 – point c**

*Text proposed by the Commission*

*Amendment*

(c) temporary or permanent exclusions from access to public funding, including

(c) temporary or permanent exclusions from access to public funding, including

tender procedures, grants **and** concessions;

tender procedures, grants, concessions **and licences**;

#### **Amendment 91**

##### **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 **exercising a leading position within a legal person** of the type used for committing the offence;

#### **Amendment 92**

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

*Text proposed by the Commission*

*Amendment*

**(ga) a requirement to pay the costs of the proceedings borne by the successful party, in accordance with conditions and exceptions provided for in national law applicable to court proceedings.**

#### **Amendment 93**

##### **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 power of representation of the legal person **and/or**;

#### **Amendment 94**

##### **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 decisions on behalf of the legal person ***and/or***;

## **Amendment 95**

### **Proposal for a directive**

#### **Article 6 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that legal persons that commit an offence referred to in Articles 3 and 4 can be held liable under civil law, where relevant, for any harm or damage they cause as a result of that offence, and, in conformity with national law, can be required to compensate the persons who have suffered that harm or damage.***

## **Amendment 96**

### **Proposal for a directive**

#### **Article 6 – paragraph 3**

*Text proposed by the Commission*

*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.

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

## **Amendment 97**

### **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) **or (2)** is punishable by effective, proportionate and dissuasive sanctions **and measures. The level of sanctions shall be proportionate and adapted to reflect the degree of severity and duration of the damage caused.**

**Amendment 98**

**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:

**Amendment 99**

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

*Text proposed by the Commission*

(a) criminal or non-criminal fines;

*Amendment*

(a) criminal or non-criminal fines, **proportionate to the gravity and duration of the damage caused to the environment as well as to the financial benefits accrued by committing the offence;**

**Amendment 100**

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

*Text proposed by the Commission*

*Amendment*

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

(b) the obligation to reinstate the environment within a given period, ***or to compensate for the damage caused, if the perpetrator is not in a capacity to carry out such a reinstatement or if the damage is irreversible;***

**Amendment 101**

**Proposal for a directive**

**Article 7 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 102**

**Proposal for a directive**

**Article 7 – paragraph 2 – point k**

*Text proposed by the Commission*

*Amendment*

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

(k) ***national or Union-wide*** publication of the judicial decision relating to the conviction or any sanctions or measures applied, ***including by referring them to relevant Union institutions.***

**Amendment 103**

**Proposal for a directive**

**Article 7 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(2)***

***deleted***

*is punishable by sanctions or measures, which are effective, proportionate and dissuasive.*

#### **Amendment 104**

##### **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 **proportionate** 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.

#### **Amendment 105**

##### **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*

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 **proportionate** 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.

#### **Amendment 106**

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

*Text proposed by the Commission*

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

*Amendment*

(a) the offence caused death or serious ***harm to any person's health***;

**Amendment 107**

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

*Text proposed by the Commission*

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

*Amendment*

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem, ***or to protected species referred to in Article 3(1) points (l) and (m)***;

**Amendment 108**

**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 involved corruption, money laundering, fraud, extortion, coercion or other forms of intimidation***;

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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.

**Amendment 109**

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

*Text proposed by the Commission*

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

*Amendment*

(d) the offence involved the use of false or forged documents, ***or breached a condition of authorisation***;

#### **Amendment 110**

##### **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, ***destroys evidence***, or intimidates or interferes with witnesses or complainants;

#### **Amendment 111**

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

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

*Text proposed by the Commission*

*Amendment*

***(ja) the offence was committed within a protected area.***

#### **Amendment 112**

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

##### **Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

(a) the offender restores nature to its previous condition ***before the start of a criminal investigation***;

#### **Amendment 113**



**Proposal for a directive**  
**Article 9 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the offender takes steps to minimise the impact and extent of the damage or remediates the damage of has the damage remediated before the start of a criminal investigation;**

**Amendment 114**

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

*Text proposed by the Commission*

*Amendment*

**Article 9a**

**Precautionary measures**

**Member States shall take the necessary measures to ensure that their competent judicial authorities may order the immediate cessation of the unlawful conducts referred to in Articles 3 and 4 of this Directive, or impose measures to prevent the execution of such conducts, in order to avert damage being caused to the environment.**

**Amendment 115**

**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, as appropriate, that their competent authorities may **trace, identify**, 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

offences as referred to in this Directive.

the commission of the 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 restoration of the environment or remediation of any damage caused, or to provide compensation for the environmental damage, in accordance with national law.***

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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).

## **Amendment 116**

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## **Amendment 117**

### **Proposal for a directive Article 11 – paragraph 2 – introductory part**

#### *Text proposed by the Commission*

2. Member ***State*** shall ***the*** take

#### *Amendment*

2. Member ***States*** shall take ***the***

necessary measures to enable the investigation, prosecution, trial and judicial decision:

necessary measures to enable the investigation, prosecution, trial and judicial decision:

## **Amendment 118**

### **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;

## **Amendment 119**

### **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;

## **Amendment 120**

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

## Amendment 121

### 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*

## Amendment 122

### 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 legal person established on its territory;*

## Amendment 123

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 124

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

*Text proposed by the Commission*

*Amendment*

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

**deleted**

## **Amendment 125**

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

1. Member States shall take the necessary measures to ensure that protection under Directive (EU) 2019/1937 **is granted to any natural** persons reporting criminal offences referred to in Articles 3 and 4 of this Directive **and to ensure that a similar adequate level of protection is provided to any legal persons reporting those offences.**

## **Amendment 126**

### **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 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.

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 **protection**, support and assistance in the context of criminal proceedings **in accordance with their national legal system.**

## **Amendment 127**

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

*Text proposed by the Commission*

*Amendment*

**2a. Member States shall assess the need to create instruments in accordance with their national legal system to enable persons to report environmental offences anonymously, where such instruments do not yet exist.**

**Amendment 128**

**Proposal for a directive**  
**Article 14 – title**

*Text proposed by the Commission*

*Amendment*

***Rights for the public concerned to participate in proceedings***

***Publication of information in the public interest and access to justice for the public concerned***

**Amendment 129**

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

*Text proposed by the Commission*

*Amendment*

***Member States shall, in accordance with their national law, ensure that the following information is considered to be in the public interest and is made public:***

- (a) final judgments, and the level of sanctions imposed by the judge ;***
- (b) number of environmental crimes that have been reported to the authorities and number of judicial proceedings concerning such crimes which are ongoing, including those resulting from the reports;***
- (c) the arrangements to intervene in the proceedings related to the offences referred to in Articles 3 and 4.***

## Amendment 130

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

*Text proposed by the Commission*

*Amendment*

***Member States shall, in accordance with their national law, ensure that the information on the progress of the proceedings is shared with the public concerned.***

## Amendment 131

### 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 ***targeting all relevant stakeholders both from the public and private sector, effective law enforcement tools***, 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 ***all*** relevant stakeholders.

## Amendment 132

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

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that national authorities which detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of

Member States shall ensure that national ***authorities or other relevant*** authorities which detect, investigate, prosecute or adjudicate environmental offences have a

qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

sufficient number of qualified staff, ***including prosecutors and police authorities***, and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. ***In particular, Member States shall, in accordance with national law, assess the need to strengthen their judicial and enforcement systems in the area of environmental criminal law by establishing or, where relevant, strengthening specialised law enforcement units, as well as specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.***

#### **Amendment 133**

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

*Text proposed by the Commission*

*Amendment*

***Where the environmental offences are suspected to be of a cross-border nature, competent authorities of Member States shall without delay refer the information related to these cases to appropriate bodies. In accordance with the applicable rules, Member States shall also cooperate through Union agencies, in particular Eurojust and Europol, as well as with Union bodies, including the European Public Prosecutor’s Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.***

#### **Amendment 134**

##### **Proposal for a directive Article 17 – paragraph 1**



*Text proposed by the Commission*

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

**Amendment 135**

**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 136**

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

*Text proposed by the Commission*

*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 at regular intervals with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities. ***The Commission shall organise regular exchanges of best practices in this regard.***

*Amendment*

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

*Amendment*

***Member States shall, where appropriate, and in accordance with national law, assign specialised investigation units, prosecutors and criminal judges, and provide for specialised chambers of judges, to deal with environmental***

*criminal cases.*

#### **Amendment 137**

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

##### **Article 19 – title**

*Text proposed by the Commission*

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

*Amendment*

Coordination and cooperation between competent authorities within *and between* Member *States*

#### **Amendment 138**

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

##### **Article 19 – paragraph 1 – introductory part**

*Text proposed by the Commission*

Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent authorities involved in the prevention of and the fight against environmental criminal offences. Such mechanisms shall be aimed at least at:

*Amendment*

Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent authorities involved in the prevention of and the fight against environmental criminal offences. Such mechanisms *may take the form of units and bodies referred to in Article 16 of this Directive and* shall be aimed at least at:

#### **Amendment 139**

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

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

*Text proposed by the Commission*

*Amendment*

*(da) in accordance with applicable law, the exchange of relevant information between competent authorities to prevent convicted persons from reoffending in relation to the offences referred to in Articles 3 and 4, including in other*

*Member States.*

## **Amendment 140**

### **Proposal for a directive Article 19 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 19a*

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

*1. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, the Member States, Eurojust, Europol, the European Public Prosecutor's Office and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end the Commission, and where appropriate, Eurojust, shall provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations.*

*2. Within 12 months of the entry into force of this Directive the Commission shall draw up a report on measures for further strengthening cooperation between the Member States and the Commission and other Union institutions, bodies, offices and agencies. That shall include an assessment of the possibility of extending the competences of the EPPO in cooperation with Eurojust to include serious cross-border environmental crimes, and of the arrangements for such an extension.*

## **Amendment 141**

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

*Text proposed by the Commission*

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

*Amendment*

(a) the objectives and priorities of national policy in this area of offence, ***including in the case of cross-border crimes***;

**Amendment 142**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 143**

**Proposal for a directive**  
**Article 20 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) the use of the proceeds of administrative and criminal sanctions for environmental restoration actions***;

**Amendment 144**

**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;

## Amendment 145

### 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;

## Amendment 146

### Proposal for a directive Article 20 – paragraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

*(ga) assistance to and protection of victims.*

## Amendment 147

### Proposal for a directive Article 20 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

2. Member States shall ensure that the strategy is reviewed and updated at regular intervals no longer than **3** years, on a *risk analysis and impact assessment based-approach*, in order to take account of relevant developments and trends and related threats regarding environmental crime.

## Amendment 148

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

*Text proposed by the Commission*

*Amendment*

(b) the number of environmental crime

(b) the number of environmental crime

cases investigated;

cases investigated, ***including those involving cross-border cooperation;***

#### **Amendment 149**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 150**

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

*Text proposed by the Commission*

*Amendment*

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

(c) the ***median, average and maximum lengths*** of the criminal investigations of environmental crimes;

#### **Amendment 151**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 152**

##### **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;*

### **Amendment 153**

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

*Text proposed by the Commission*

*Amendment*

*(ga) the number of court cases dismissed due to the expiry of the limitation period;*

### **Amendment 154**

#### **Proposal for a directive Article 21 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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

3. Member States shall ensure that a consolidated review of their statistics is published *and made easily accessible at least every two years*.

### **Amendment 155**

#### **Proposal for a directive Article 21 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

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

4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard, *easily accessible and comparable* format established in accordance with Article 22 *within 18 months of the entry into force of this Directive*.

### **Amendment 156**

**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 **two** years after the standard format referred to in Article 22 has been determined.

**Amendment 157**

**Proposal for a directive**  
**Article 21 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. The Commission shall develop guidelines in order to assist the Member States in the preparation of harmonised, effective, dissuasive and proportionate sanctions.**

**Amendment 158**

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

*Text proposed by the Commission*

*Amendment*

Evaluation **and** reporting

Evaluation, reporting **and review**

**Amendment 159**

**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

1. The Commission shall by [OP – please insert the date - two years after the transposition period is over], **and every two**



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.

*years thereafter*, submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive, *and providing recommendations to Member States to improve compliance*. Member States shall provide the Commission with the necessary information for the preparation of that report, *including, but not limited to, data referred to in Article 21 (2)*.

## Amendment 160

### 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 of 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.*

## 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.

07.12.2022

## **OPINION OF THE COMMITTEE ON DEVELOPMENT**

for the Committee on Legal Affairs

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

Rapporteur for opinion: Caroline Roose



## SHORT JUSTIFICATION

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

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

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

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

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

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

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

at the moment.

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

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

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

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

## AMENDMENTS

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

### Amendment 1

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

*Text proposed by the Commission*

*Amendment*

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

### Amendment 2

**Proposal for a directive**  
**Recital 1 b (new)**

*Text proposed by the Commission*

*Amendment*

**(1b)** *In accordance with Article 3(5) TEU, in its relations with the wider world, the Union is to uphold and promote its values and contribute to the protection of all human rights, in particular, the rights of the child, as well as the strict observance and development of international law.*

**Amendment 3**

**Proposal for a directive**  
**Recital 1 c (new)**

*Text proposed by the Commission*

*Amendment*

**(1c)** *The Charter of Fundamental Rights of the European Union recognises fundamental rights as they result from the constitutional traditions common to the Member States and affirms that it is not to be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised in their respective fields of application by Union law, international law and by international agreements to which the Union and all Member States are party, including the European Convention for the Protection of Human rights and Fundamental Freedoms and by the Member States' constitutions.*

**Amendment 4**

**Proposal for a directive**  
**Recital 1 d (new)**

*Text proposed by the Commission*

*Amendment*

**(1d)** *The right to a clean, healthy and sustainable environment has been recognised as a human right by the*



*United Nations General Assembly in its recent resolution of 26 July 2022 (A/RES/76/300) where it affirmed that the promotion of those human rights requires the full implementation of the multilateral environmental agreements under the principles of international environmental law and called upon international organisations, States, businesses and other relevant stakeholders to adopt policies, to enhance international cooperation, strengthen capacity building and share good practices, in order to scale up efforts to ensure a clean, healthy and sustainable environment for all.*

## Amendment 5

### Proposal for a directive Recital 2

#### *Text proposed by the Commission*

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

#### *Amendment*

(2) The Union continues to be concerned with the rise in environmental criminal offences and their effects, which undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly extending beyond the borders of the Member States in which the offences are committed. ***In just a few decades, environmental crime has become the fourth largest criminal sector in the world, growing two to three times faster than the global economy, and it represents one to two times the size of global official development assistance (ODA) and is now as lucrative as drug trafficking.*** Such offences pose a threat to the environment ***and fundamental rights, entail habitat damage and biodiversity loss, amplify climate change, threaten the sustainable livelihood of vulnerable populations in developing countries, and create public health risks*** and therefore call for an appropriate and effective response. ***Environmental crime can also involve or take place in developing***

*countries where shortcomings as regards the environmental rule of law have been identified, such as a lack of an adequate legal framework and governance structures, and a lack of information, implementation and enforcement. The Union has a particular responsibility in preventing and combating environmental offences in developing countries in cases in which the action can be linked to the Union. Such offences are not compatible with Union development policy and objectives or with the United Nations Sustainable Development Goals.*

## Amendment 6

### 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. Compliance should be strengthened by the availability of criminal penalties, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties **and increase deterrence**.

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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 7

### 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, Union or national level. This Directive aims to provide a general framework by defining autonomous environmental crime, in addition to the Union-wide common set of definitions of specific environmental offences.***

*Justification*

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

## **Amendment 8**

### **Proposal for a directive**

#### **Recitals 6**

*Text proposed by the Commission*

*Amendment*

(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

(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.

<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).

## Amendment 9

the Communication from the Commission on the European Green Deal<sup>22</sup> and the EU Biodiversity Strategy for 2030<sup>23</sup>, ***all conduct deemed to be a serious infringement of*** 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).

**Proposal for a directive**  
**Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**(6a) Over recent years, the Union has taken a leading role in ensuring that international supply chains of minerals are transparent and responsible. The adoption in 2017 of Regulation (EU) 2017/ of the European Parliament and of the Council<sup>1a</sup> sent a clear international message that companies are expected to assess risks in their supply chains, and take the necessary measures to mitigate them. That Regulation currently focuses on risks of conflict financing, serious abuses of human rights and serious economic crimes. It is based on the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas which emphasizes the need for companies to identify and mitigate risks in their supply chains, to uphold human rights in producing countries and foster inclusion of legitimate small-scale miners and miners that use traditional methods.**

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<sup>1a</sup> **Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (OJ L 130, 19.5.2017, p. 1).**

**Amendment 10**

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

*Text proposed by the Commission*

*Amendment*

(8) A conduct should be considered unlawful also when it is carried out under

(8) A conduct should be considered unlawful also when it is carried out under

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

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

## Amendment 11

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

*Text proposed by the Commission*

*Amendment*

***(11a) Environmental crimes can be perpetrated by a range of state and non-state actors, from individuals, small groups, companies, government individuals, to organised criminal networks, and often a combination thereof. Transnational companies can be the perpetrators due to inter alia, their exploitation of the environment and the damage they cause to the environment, in order to generate more profit or reduce their costs, in particular in developing countries where the legal and institutional frameworks are usually weaker. In relation to transnational companies, other actors can also be at fault and the responsibility should, therefore, be shared and accompanied by penalties as appropriate.***

## Amendment 12

### Proposal for a directive Recital 12

*Text proposed by the Commission*

(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact the environment. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. ***In this respect***, it is of particular concern that some environmental crimes are committed with the tolerance or active support of the competent administrations or officials performing his/her public duty. ***In certain cases this can even*** take the form of corruption. Examples of such behaviours are turning a blind eye or remaining silent 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. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. ***Given the importance of corporate environmental crime, improving transparency in corporate supply and value chains is necessary. Transparency with regard to beneficial ownership of companies, in particular, is key to prosecuting environmental crime, for example concerning illegal, unregulated and unreported fishing or illegal wildlife trafficking. Therefore, Member States should in parallel ensure full implementation of Directive (EU) 2018/843 of the European Parliament and of the Council<sup>1a</sup>.*** 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 ***which can*** 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 ***or, especially in developing countries, promoting the prosecution of environmental defenders***

*who act against environmental crime.*

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

## Amendment 13

### Proposal for a directive

#### Recital 14

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

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

##### *Amendment*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the obligation to reinstate the environment, ***compensation for the damage caused***, exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations. ***Sanctions that are designed to ensure that crimes are not repeated are very important. Effective remedies, including redress, mitigation and adaptation measures and injunctions should also be provided.*** This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.



## Amendment 14

### Proposal for a directive Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

***(14a) In order for sanctions to be effective it is also necessary to introduce in this Directive the environmental restorative justice approach, which has long been called for by civil society and specialised organisations. The restorative model has a preventive approach, aimed at repairing the damage caused and creating the environmental awareness necessary to avoid such damage in the future. It can be done through, among other means, environmental recovery funds, environmental social projects or community services for the benefit of the environment. Environmental restorative justice also aims to allow the participation of victims in the process of the determination of the sanctions and, in the future, of the environmental management of the corporations that are sanctioned.***

## Amendment 15

### Proposal for a directive Recital 15

*Text proposed by the Commission*

*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

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

sanction imposed.

order to achieve its objectives. Financial situation of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed.

## Amendment 16

### Proposal for a directive

#### Recital 16

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

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

##### *Amendment*

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

## Amendment 17

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

*Text proposed by the Commission*

*Amendment*

***(16a) While the recognition of the crime of ecocide is currently being discussed in several national parliaments around the world, the Union should seize the opportunity to remain a world leader in environmental protection legislation and to provide for a harmonised definition and maximum limits for sanctions. Member States should therefore introduce a crime of ecocide, which should be considered a criminal offence for the purposes of this Directive and be defined as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and widespread or long-term damage to the environment being caused. That specific crime would make it possible to identify the most serious damage to the environment and thus to provide for a graduation of sanctions according to the gravity of the harm to the environment***

#### *Justification*

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

## Amendment 18

### Proposal for a directive Recital 19

*Text proposed by the Commission*

*Amendment*

(19) Member States should lay down

(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.

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

## Amendment 19

### Proposal for a directive Recital 20

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 20

### Proposal for a directive Recital 23

#### *Text proposed by the Commission*

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

#### *Amendment*

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

*for the benefit of a legal person established in their territories, where it is committed against their residents, or where it is committed in third countries by a Union citizen or a legal person established in the Union.*

## **Amendment 21**

### **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 frontline of the consequences of environmental crime worldwide, including in the Union. They could be directly threatened, intimidated, persecuted, harassed or even murdered by perpetrators, and as such should also benefit from balanced and effective protection. The establishment of an independent special rapporteur on environmental rights defenders under the Aarhus Convention, and consequently the establishment of protection measures, is also a way to better fight environmental crime.*

## **Amendment 22**

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

*Text proposed by the Commission*

*Amendment*

*(24b) In its resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society<sup>1a</sup>, the European Parliament noted that environmental defenders could also be subject to abusive lawsuits and threats, and should be*

*protected from such abusive practices, also known as Strategic Lawsuits Against Public Participation.*

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*<sup>1a</sup> OJ C 205, 20.5.2022, p. 2.*

#### **Amendment 23**

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

*(26a) Nature can be considered the victim of the damage caused by environmental crimes. Some countries have already granted legal personality to ecosystems even at the constitutional level (as in Ecuador or Bolivia). In Colombia the Constitutional Court granted those rights in the Atrato River ruling T-622-16. Canada and New Zealand are two other countries where nature has been granted legal personality. In the Union, some Member States are in the process of constitutional reforms to incorporate the rights of nature at the highest level. Spain for instance recognised legal personality of the Mar Menor Lagoon and its basin by means of the recent law 19/2022, of 30 September 2022. The Union could take into account the existing legal frameworks in developing countries and in Member States as well as ongoing reform processes within the Union and provide sound legislation that would incorporate a long-term vision by taking into account future legal developments that have begun in the Union.*

#### **Amendment 24**

**Proposal for a directive  
Recital 31 a (new)**

*Text proposed by the Commission*

*Amendment*

***(31a) Due to its global impact and cross-border nature, and in line with Sustainable Development Goal 17, cooperation with third countries and, in particular with developing countries should be intensified, in particular by adopting and supporting effective measures and mechanisms to increase coordination and cross-border cooperation in order to combat environmental transnational crime. It is estimated that billions of euros in revenues and taxes are annually stolen from developing countries, causing major economic losses. Member States should seek to step up development cooperation through increased financial and technical support to address environmental crime in developing countries.***

## **Amendment 25**

### **Proposal for a directive Recital 31 b (new)**

*Text proposed by the Commission*

*Amendment*

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

*responsibility in that regard.*

## Amendment 26

### Proposal for a directive

#### Recital 32

*Text proposed by the Commission*

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

*Amendment*

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



transmitted by the Member States.

## Amendment 27

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 28

### Proposal for a directive Article 2

#### *Text proposed by the Commission*

#### Article 2

#### Definitions

For the purpose of this Directive, the following definitions apply:

- (1) ‘unlawful’ means a conduct infringing one of the following:
  - (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;
  - (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).

The conduct shall be deemed unlawful even if carried out under an authorisation

#### *Amendment*

#### Article 2

#### Definitions

For the purpose of this Directive, the following definitions apply:

- (1) ‘unlawful’ means a conduct infringing one of the following:
  - (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;
  - (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).

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;

by a competent authority in a Member State, *or in a third country where the conduct was carried out by a Union citizen or a legal person established in the Union*, when the authorisation was obtained fraudulently or by corruption, extortion or coercion;

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

*(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;*

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

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

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

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

(2) ‘habitat within a protected site’ means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>30</sup>, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive 92/43/EEC<sup>31</sup>;

(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;

(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;

(5) ‘victim’ **has the meaning attributed to it in Article 2(1) point (a) of Directive 2012/29/EU of the European Parliament and of the Council<sup>32</sup>.**

**and novel entities;**

(2) ‘habitat within a protected site’ means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>30</sup>, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive 92/43/EEC<sup>31</sup>;

(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;

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

(5) ‘victim’ **means:**

(i) **natural persons, including future generations, who, individually or collectively, have suffered or are likely to suffer harm, including physical, mental or emotional harm, economic loss, loss of culture, traditions, traditional knowledge associated with genetic resources, or substantial impairment or abuse of their human rights due to an environmental criminal offence;**

(ii) **relatives of a person whose death was directly caused by an environmental criminal offence and who have suffered**

*harm as a result of that person's death;*

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

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<sup>30</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).

<sup>31</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).

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

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<sup>30</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).

<sup>31</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).

## Amendment 29

### Proposal for a directive Article 3

*Text proposed by the Commission*

Article 3  
Offences

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

*Amendment*

Article 3  
Offences

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

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

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

intentionally:

(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;

(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;

(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:

(i) this activity is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>33</sup>; or

(ii) this activity is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or

(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council<sup>34</sup>; or

(iv) this activity is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council<sup>35</sup>; or

(v) this activity falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>36</sup>; or

(vi) this activity is prohibited pursuant to Annex I to Regulation (EU) 2019/1021

intentionally, *or with serious negligence*:

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

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

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

(i) this activity is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>33</sup>; or

(ii) this activity is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or

(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council<sup>34</sup>; or

(iv) this activity is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council<sup>35</sup>; or

(v) this activity falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>36</sup>; or

(vi) this activity is prohibited pursuant to Annex I to Regulation (EU) 2019/1021

of the European Parliament and of the Council<sup>37</sup>,

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;

(d) the execution of projects referred to in Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council<sup>38</sup> without a development consent or an assessment with regard to their effects on the environment, which causes or is likely to cause substantial damage to the factors defined in Article 3(1) of Directive 2011/92/EU;

(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:

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup> and is undertaken in a non-negligible quantity;

(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;

(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>40</sup> when such shipment is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;

of the European Parliament and of the Council<sup>37</sup>,

***(vi a) that activity is not in compliance with Directive 2009/128/EC of the European Parliament and of the Council<sup>37a</sup>,***

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;

(d) the execution of projects referred to in Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council<sup>38</sup> without a development consent or an assessment with regard to their effects on the environment, which causes or is likely to cause substantial damage to the factors defined in Article 3(1) of Directive 2011/92/EU;

(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:

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup> and is undertaken in a non-negligible quantity;

(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;

(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>40</sup> when such shipment is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;

(g) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>41</sup>, without complying with the requirements of Article 6(2), point (a) of that Regulation;

(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;

(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;

(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

(g) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>41</sup>, without complying with the requirements of Article 6(2), point (a) of that Regulation;

(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>, 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 **or pollution, as defined in Article 3, point 8, of Directive 2008/56/EC of the European Parliament and of the Council<sup>42a</sup>**; this provision shall not apply to individual cases, where the ship-source discharge does not cause deterioration in the quality of water **and the marine environment**, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water;

(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;

(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;

(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;

(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;

(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;

(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and

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;

(k) the abstraction **or contamination** 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;

***(ka) the starting and causing the spread of fires that cause or may cause substantial damage to the quality of the air, soil, water, to animals or plants, or may seriously harm the balance of ecosystems or the environment or cause death or serious injury to people or cause other human rights violations including the displacement of populations and animals;***

(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;

(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;

(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and



of the Council<sup>52</sup>, except for cases where the conduct concerns a negligible quantity; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.]

(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;

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

(i) the conduct breaches restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council<sup>53</sup>;

(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;

(q) production, placing on the market, import, export, use, emission or release of ozone depleting substances as defined in Article 3 (4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council<sup>54</sup> or of products and equipment containing or relying on such substances;

(r) production, placing on the market, import, export, use, emission or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council<sup>55</sup> or of products and equipment containing or relying on such gases.

of the Council<sup>52</sup>, except for cases where the conduct concerns a negligible quantity; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.]

(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;

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

(i) the conduct breaches restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council<sup>53</sup>;

(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;

(q) production, placing on the market, import, export, use, emission or release of ozone depleting substances as defined in Article 3 (4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council<sup>54</sup> or of products and equipment containing or relying on such substances;

(r) production, placing on the market, import, export, use, emission or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council<sup>55</sup> or of products and equipment containing or relying on such gases;

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

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

*(r c) serious breaches of the due diligence obligations set out in Directive (EU) xxx/xxx of the European Parliament and of the Council [Corporate Sustainability Due Diligence Directive]<sup>55a</sup> and non-compliance with the decisions of the competent authorities in that matter;*

*(r d) serious breaches of Directive (EU) xxx/xxx of the European Parliament and of the Council [Corporate Sustainability Reporting Directive]<sup>55b</sup>.*

**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.**

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

(a) the baseline condition of the affected environment;

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

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

(a) the baseline condition of the affected environment;

***(a a) conservation status of the species affected by the damage;***

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

***(b a) latent character of the damage;***

(c) severity of the damage;

(d) spread of the damage;

(e) reversibility of the damage.

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

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

(b) the extent to which the values, parameters or limits set out in legal acts or in an authorisation issued for the activity are exceeded;

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

(d) spread of the damage;

***(d a) the commission of the offence by a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA<sup>55c</sup>;***

(e) reversibility of the damage;

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

***(e b) the financial impacts of damage caused;***

***(e c) the financial benefits gained by the perpetrator of the environmental offence;***

***(e d) serious violation or negligent breach of due diligence obligations;***

***(e e) the severity of the impact on human rights of a person or persons, including local communities.***

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

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

(b) the extent to which the values, parameters or limits set out in legal acts or in an authorisation issued for the activity are exceeded;

(c) whether the material or substance is classified as dangerous, hazardous or otherwise listed as harmful to the environment or human health.

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):

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

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

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

(d) the cost of restoration of environmental damage.

(c) whether the material or substance is classified as dangerous, hazardous or otherwise listed as harmful to the environment or human health.

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):

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

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

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

(d) the cost of restoration of environmental damage.

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<sup>33</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

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

<sup>35</sup> Regulation (EU) No 528/2012 of the

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<sup>33</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

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

<sup>35</sup> Regulation (EU) No 528/2012 of the

European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1–123).

<sup>36</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

<sup>37</sup> Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).

<sup>38</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

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

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

<sup>41</sup> Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

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

European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1–123).

<sup>36</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

<sup>37</sup> Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).

<sup>37a</sup> ***Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).***

<sup>38</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

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

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

<sup>41</sup> Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

<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).

<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).

<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

7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11–21).

***<sup>42a</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 (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).***

<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).

<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).

<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>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).

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

<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).

<sup>54</sup> Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1–30).

<sup>55</sup> Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195–230).

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).

<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>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).

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

<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).

<sup>54</sup> Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1–30).

<sup>55</sup> Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195–230).

*<sup>55a</sup> Directive (EU) xxx/xxx of ... of the European Parliament and of the Council on Corporate Sustainability Due*

***Diligence and amending Directive (EU) 2019/1937 (OJ L ..., ..., p. ...).***

***<sup>55b</sup> Directive (EU) xxx/xxx of ... of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting (OJ L ..., ..., p. ...).***

***<sup>55c</sup> Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).***

## **Amendment 30**

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

*Text proposed by the Commission*

*Amendment*

#### ***Article 3a (new)***

##### ***Ecocide***

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

## **Amendment 31**

### **Proposal for a directive Article 4**

*Text proposed by the Commission*

*Amendment*

#### **Article 4**

#### **Article 4**

Inciting, aiding and abetting and attempt

Inciting, aiding and abetting and attempt

1. Member States shall ensure that inciting, and aiding and abetting the

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.

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 32

### 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 33

### 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 34

commission of any of the criminal offences referred to in Article 3(-1), (-1a) and (1) or Article 3a are punishable as criminal offences.

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), (-1a) and (1) or Article 3a when committed intentionally is punishable as a criminal offence.

#### *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.

#### *Amendment*

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

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

*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:

- (a) obligation to reinstate the environment within a given time period;
- (b) fines;
- (c) temporary or permanent exclusions from access to public funding, including tender procedures, grants and concessions;
- (d) disqualification from directing establishments of the type used for committing the offence;
- (e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;
- (f) temporary bans on running for elected or public office;
- (g) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.

**Amendment 35**

**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

*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:

- (a) obligation to reinstate the environment within a given time period;
- (b) fines ***which shall be proportional to the damage caused by the offence***;
- (c) temporary or permanent exclusions from access to public funding, including tender procedures, grants and concessions ***and licences***;
- (d) disqualification from directing establishments of the type used for committing the offence;
- (e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;  
***(ea) bans on the pursuit of activities which have resulted in committing the offence***;
- (f) temporary bans on running for elected or public office;
- (g) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.

*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.

the lack of supervision or control *of their supply chains* by a person referred to in paragraph 1 has made possible the commission of an offence referred to in Articles 3, **3a** and 4 for the benefit of the legal person by a person under its authority.

## Amendment 36

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 37

### Proposal for a directive Article 7

*Text proposed by the Commission*

#### Article 7

##### Sanctions for legal persons

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.
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:
  - (a) criminal or non-criminal fines;
  - (b) the obligation to reinstate the environment within a given period;

*Amendment*

#### Article 7

##### Sanctions for legal persons

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.
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:
  - (a) criminal or non-criminal fines;
  - (b) the obligation to reinstate the environment within a given period *and to*

- (c) exclusion from entitlement to public benefits or aid;
- (d) temporary exclusion from access to public funding, including tender procedures, grants and concessions;
- (e) temporary or permanent disqualification from the practice of business activities;
- (f) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;
- (g) placing under judicial supervision;
- (h) judicial winding-up;
- (i) temporary or permanent closure of establishments used for committing the offence;
- (j) obligation of companies to install due diligence schemes for enhancing compliance with environmental standards;
- (k) publication of the judicial decision relating to the conviction or any sanctions or measures applied.

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

*compensate for the damage caused;*

- (c) exclusion from entitlement to public benefits or aid;
- (d) temporary exclusion from access to public funding, including tender procedures, grants and concessions ***and licenses;***
- (e) temporary or permanent disqualification from the practice of business activities;
- (f) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;
- (g) placing under judicial supervision;
- (h) judicial winding-up;
- (i) temporary or permanent closure of establishments used for committing the offence;
- (j) obligation of companies to install due diligence schemes for enhancing compliance with environmental ***and human rights*** standards ***and obligations;***
- (k) publication of the judicial decision relating to the conviction or any sanctions or measures applied;

***(ka) community services in favour of the environment;***

***(kb) financial contributions to environmental or human rights organisations, especially in developing countries;***

***(kc) presenting apologies to and making requests for forgiveness from the affected victims;***

***(kd) attribution of shares or social capital to the victims in the developing countries.***

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.

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.

**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.***

6. Member States shall take measures to ensure that the illegal profits generated from the offence and the annual turnover of the legal person are taken into account when a decision is made on the appropriate level of a fine pursuant to paragraph 1.

dissuasive.

4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(-1), (-1a) and (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.

6. Member States shall take measures to ensure that the illegal profits generated from the offence and the annual turnover of the legal person are taken into account when a decision is made on the appropriate level of a fine pursuant to paragraph 1.

**6a. *Member States shall take the necessary measures to ensure that offences referred to in Article 3a are punishable by fines, paid by the legal person committing the environmental offence, the minimum amount of which shall be between 15 and 30 % of the total worldwide turnover of the legal person in the business year preceding the decision and the maximum being the total amount necessary for the restoration of the damage to the environment and for the payment of compensation and damages to affected legal and natural persons.***

## Amendment 38

### Proposal for a directive Article 8

*Text proposed by the Commission*

Article 8

Aggravating circumstances

In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Article 3, Member States shall take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, the following circumstances may be regarded as aggravating circumstances:

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

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

*Amendment*

Article 8

Aggravating circumstances

In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Article 3, Member States shall take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, the following circumstances may be regarded as aggravating circumstances:

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

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

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

***(ac) the offence has caused or will cause serious damage to future generations;***

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

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

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

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

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

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

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

(g) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;

(h) the offender's conduct gives rise to liability for environmental damage but the offender does not fulfil their obligations to take remedial action under Article 6 of Directive 2004/35/EC<sup>57</sup>;

(i) the offender does not provide assistance to inspection and other enforcement authorities when legally required;

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

***(ba) the offence damaged a legally protected area in a third country;***

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

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

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

***(ea) the offender holds a political position or has been entrusted with prominent public functions;***

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

***(fa) the offence was committed together with other crimes;***

(g) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;

(h) the offender's conduct gives rise to liability for environmental damage but the offender does not fulfil their obligations to take remedial action under Article 6 of Directive 2004/35/E<sup>57</sup>;

(i) the offender does not provide assistance to inspection and other enforcement authorities when legally required;

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

***(ja) the offence has caused serious injuries to or the death of human rights or environmental defenders, journalists, members of NGOs or persons reporting criminal offences or it entails coercing or***

*attacking such persons.*

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<sup>57</sup> Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56–75).

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<sup>57</sup> Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56–75).

### **Amendment 39**

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

*Text proposed by the Commission*

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

*Amendment*

(a) the offender restores nature to its previous condition *or pays fair compensation to the victims*;

### **Amendment 40**

#### **Proposal for a directive Article 9 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(b a) the offender admits his or her guilt and pays compensation that is sufficient to deal with the damage caused to the environment and fair compensation to the victims;***

*Justification*

*It is important to allow the reduction of the penalty if the offender admits his guilt in order to reduce the time of the investigations, the cost of the procedures and to conclude the process as soon as possible providing in this way timely justice to the victims and avoiding further suffering. The reduction of the penalty should be conditioned to a fair compensation to the victims and the environment.*

### **Amendment 41**

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



## **Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Member States shall adopt the necessary measures so that the confiscated assets are integrated into social funds dedicated to carrying out environmental repair projects in the affected environments and the affected local communities, especially in developing countries.***

*Justification*

*As some States already do with assets seized in drug crime, the profits and instruments of environmental crime can be linked to the rehabilitation of natural spaces or the improvement of actions to prosecute environmental crimes, through the creation of social or environmental funds for confiscated assets. In this way, in addition, the fight against environmental crime is projected to society in a more direct and visible way.*

## **Amendment 42**

### **Proposal for a directive**

## **Article 10 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***Member States shall take the necessary measures to ensure the return of confiscated funds or assets of environmental crime perpetrators to the developing countries where the offence was committed, while ensuring that they are used for appropriate purposes such as restoring the environmental damages, compensating the victims and local communities, improving the living conditions of the affected population or strengthening the rule of law systems of the developing country concerned.***

*Justification*

*Many environmental crimes committed in developing countries are linked to organised crime and money laundering. Target 16.4 of 2030 Agenda establishes the objective of “strengthening the recovery and return of stolen assets”. This directive represents an opportunity for the Union to contribute to achieving this goal by allowing the proceeds of*

*environmental crimes committed in developing countries but prosecuted and judged in Member States to be returned to these countries while ensuring they are used for appropriate purposes.*

### **Amendment 43**

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

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences ***or the date on which the environmental damage or human rights violation was known or revealed*** in order for those criminal offences to be tackled effectively, ***in particular, where the environmental crime has a transnational nature, has been committed in a developing country and involved organised crime. For the investigation, prosecution, trial and adjudication of criminal offences referred in Article 3a there shall not be a limitation period.***

### **Amendment 44**

#### **Proposal for a directive Article 11 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 45

### 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*

## Amendment 46

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

*Text proposed by the Commission*

*Amendment*

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

- (a) the offence was committed in whole or in part on its territory;
- (b) the offence was committed on board a ship or an aircraft registered in it or flying its flag;
- (c) the damage occurred on its territory;
- (d) the offender is one of its nationals or habitual residents.

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:

- (a) the offence was committed in whole or in part on its territory;
- (b) the offence was committed on board a ship or an aircraft registered in it or flying its flag;
- (c) the damage occurred on its territory;
- (d) the offender is one of its nationals or habitual residents, **regardless of whether the offence takes place in a Member State or a third country;**
- (da) the offence was committed for the benefit of a legal person established on its territory.**

## Amendment 47

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

*Text proposed by the Commission*

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:

- (a) the offence is committed for the benefit of a legal person established on its territory;
- (b) the offence is committed against one of its nationals or its habitual residents;
- (c) the offence has created a severe risk for the environment on its territory.

Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA<sup>59</sup>, be referred to Eurojust.

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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).

#### **Amendment 48**

##### **Proposal for a directive Article 12 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

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

- (a) the offence is committed for the benefit of a legal person established on its territory;
- (b) the offence is committed against one of its nationals or its habitual residents;
- (c) the offence has created a severe risk for the environment **or for biodiversity** on its territory.

Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA<sup>59</sup>, be referred to Eurojust.

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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).

**3b. Member States shall introduce universal jurisdiction for their courts for the prosecution and judgement of an offence referred to in Article 3a, in order to avoid the externalisation of environmental damage, where it was not committed on its territory, was committed**

***by a third-country national, involved a victim from a third country, and the environment of that Member State has not been affected or damaged.***

*Justification*

*Environmental crimes are very often cross-border in nature. To avoid the externalisation of environmental damage, it should be possible to prosecute a legal or natural person for crimes committed in a third country, in particular in the case of ecocide.*

**Amendment 49**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 50**

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

*Text proposed by the Commission*

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

*Amendment*

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

### *Justification*

*Both natural and legal persons should be protected when they report environmental offences or assist the investigation. Civil Society Organisations (CSOs), which are often at the forefront of detecting environmental crime need to be protected as well.*

#### **Amendment 51**

##### **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 and 4, for instance as a civil party ***or as a private prosecutor.***

#### **Amendment 52**

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

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

###### *Amendment*

***Member States shall ensure that, the following information is considered to be in the public interest and made available to the public concerned:***

- (a) any final judgement in a trial;***
- (b) information enabling the members of the public concerned to know about the state of the proceedings, unless in exceptional cases the proper handling of the case might be adversely affected by such disclosure of information.***

### *Justification*

*A minimum level of rights should be awarded to the general public in its capacity of exercising representation of nature as a victim of an environmental crime.*

## Amendment 53

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

*Text proposed by the Commission*

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

*Amendment*

Member States shall take appropriate action, such as ***the improvement of the preventive law enforcement tools***, information and awareness-raising campaigns and research and education programmes, to reduce overall environmental criminal offences, raise public awareness and reduce the risk of population of becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders.

## Amendment 54

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 55

### Proposal for a directive Article 15 a (new)

*Text proposed by the Commission*

*Amendment*

***Article 15a***

***The reinforcement of the administrative inspections systems and the use of new technologies, such as the use of Earth***

*observation, shall be enhanced to prevent and detect environmental crimes, in particular those committed in developing countries.*

## Amendment 56

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

*Text proposed by the Commission*

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

*Amendment*

Member States shall ensure that national authorities which **prevent**, detect, investigate, prosecute or adjudicate environmental offences 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 57

### Proposal for a directive Article 17 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations, **including environmental experts**, to provide at regular intervals specialised training, **especially in the case of environmental crime committed within the framework of criminal organisations** with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities. **Specialised training courses on the investigation and prosecution of transnational environmental crimes shall**



*be given particular attention.*

## **Amendment 58**

### **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, ***cybercrime***, ***financial crime*** or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

## **Amendment 59**

### **Proposal for a directive Article 19 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 19a***

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

- 1. Member States shall ensure effective coordination and cross-border cooperation with other Member States and with the Union, including its specialized bodies, offices and agencies, such as the European Union Agency for Criminal Justice Cooperation (Eurojust), the European Union Agency for Law Enforcement Cooperation (Europol), the European Public Prosecutor's Office, European Union Agency for Law Enforcement Training (CEPOL) and the European Union Agency for Fundamental Rights.***
- 2. Member States shall intensify international judicial cooperation and, in***

*particular, cooperation with developing countries in order to strengthen their rule of law and governance systems with a view to implementing effective mechanisms to prevent and combat environmental crime.*

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

## **Amendment 60**

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

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 61**

### **Proposal for a directive Article 20 – paragraph 1 – point b**

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 62

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 63

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 64

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 65

### Proposal for a directive Article 20 – paragraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

***(ga) assistance to, and protection of, victims in developing countries, in***

*particular those in vulnerable situations, including environmental defenders;*

## Amendment 66

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

#### *Text proposed by the Commission*

2. The statistical data referred to in paragraph 1 shall include at least the following:
- (a) the number of environmental crime cases reported;
  - (b) the number of environmental crime cases investigated;
  - (c) the average length of the criminal investigations of environmental crimes;
  - (d) the number of convictions for environmental crime;
  - (e) the number of natural persons convicted and sanctioned for environmental crime;
  - (f) the number of legal persons sanctioned for environmental crime or equivalent offences;
  - (g) the number of dismissed court cases for environmental crime;
  - (h) the types and levels of sanctions imposed for environmental crime, including per categories of environmental offences according to Article 3.

#### *Amendment*

2. The statistical data referred to in paragraph 1 shall include at least the following:
- (a) the number of environmental crime cases reported;
  - (b) the number of environmental crime cases investigated;
  - (c) the average length of *court proceedings from the beginning of* the criminal investigations of environmental crimes *to the issuance of the judicial sentence and its execution*;
  - (d) the number of convictions for environmental crime;
  - (e) the number of natural persons convicted and sanctioned for environmental crime;
  - (f) the number of legal persons sanctioned for environmental crime or equivalent offences *and whether the perpetrator was an organised crime group or acted within such a group*;
  - (g) the number of dismissed court cases for environmental crime;
  - (h) the types and levels of sanctions imposed for environmental crime, including per categories of environmental offences according to Article 3;
  - (ha) *the number of transnational environmental crime cases disaggregated by countries where the environmental offence was committed*;
  - (hb) *figures on proceeds from*

*environmental crimes that were provisionally seized or frozen and finally confiscated;*

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

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

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

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Protection of the environment through criminal law and replacing Directive 2008/99/EC
<b>References</b>	COM(2021)0851 – C9-0466/2021 – 2021/0422(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 27.1.2022
<b>Opinion by</b> Date announced in plenary	DEVE 24.3.2022
<b>Rapporteur for the opinion</b> Date appointed	Caroline Roose 14.3.2022
<b>Discussed in committee</b>	30.8.2022
<b>Date adopted</b>	30.11.2022
<b>Result of final vote</b>	+: 12 –: 10 0: 0
<b>Members present for the final vote</b>	Barry Andrews, Eric Andrieu, Hildegard Bentele, Udo Bullmann, Antoni Comín i Oliveres, Charles Goerens, Mónica Silvana González, Pierrette Herzberger-Fofana, Karsten Lucke, Pierfrancesco Majorino, Janina Ochojska, Michèle Rivasi, Christian Sagartz, Eleni Stavrou, Tomas Tobé, Miguel Urbán Crespo
<b>Substitutes present for the final vote</b>	Alessandra Basso, Marlene Mortler, Caroline Roose
<b>Substitutes under Rule 209(7) present for the final vote</b>	Virginie Joron, Joachim Kuhs, Aušra Maldeikienė

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<b>12</b>	<b>+</b>
NI	Antoni Comín i Oliveres
Renew	Barry Andrews, Charles Goerens
S&D	Eric Andrieu, Udo Bullmann, Mónica Silvana González, Karsten Lucke, Pierfrancesco Majorino
The Left	Miguel Urbán Crespo
Verts/ALE	Pierrette Herzberger-Fofana, Michèle Rivasi, Caroline Roose
<b>10</b>	<b>-</b>
ID	Alessandra Basso, Virginie Joron, Joachim Kuhs
PPE	Hildegard Bentele, Aušra Maldeikienė, Marlene Mortler, Janina Ochojska, Christian Sagartz, Eleni Stavrou, Tomas Tobé
<b>0</b>	<b>0</b>

Key to symbols:

+ : in favour

- : against

0 : abstention

25.10.2022

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY**

for the Committee on Legal Affairs

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

Rapporteur for opinion: Sirpa Pietikäinen

### **SHORT JUSTIFICATION**

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

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

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

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

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

Currently, the threshold for investigations is too high, which leads to lower detection,



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

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

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

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

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

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

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

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

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

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

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

**AMENDMENTS**

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

**Amendment 1**

**Proposal for a directive  
Recital 1**

*Text proposed by the Commission*

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

*Amendment*

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

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

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

## **Amendment 2**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 3**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 4**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 5**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 6**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 7**

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

*Text proposed by the Commission*

*Amendment*

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

*issues are to be considered as criminal.*

## Amendment 8

### Proposal for a directive

#### Recital 2

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 9

### Proposal for a directive

#### Recital 3

*Text proposed by the Commission*

(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the 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

*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. Compliance should be strengthened by the

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

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

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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).

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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 10**

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

*Text proposed by the Commission*

*Amendment*

***(3a) Despite the growing number of environmental crimes, a harmonised and accepted definition of environmental crimes does not yet exist at Union or national level, therefore this Directive should provide a general framework by defining autonomous environmental crimes, in addition to the Union-wide common set of definitions of specific environmental offences<sup>1a</sup>.***

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<sup>1a</sup> See Rome, IAI e AMBITUS, May 2022, p. 19.

## **Amendment 11**

### **Proposal for a directive Recital 4**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 12**

**Proposal for a directive  
Recital 6**

*Text proposed by the Commission*

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

*Amendment*

***deleted***



*enforcement under Regulation (EC) No 1224/2009<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).**

## Amendment 13

### Proposal for a directive Recital 8

#### *Text proposed by the Commission*

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

#### *Amendment*

(8) A conduct should be considered unlawful also when it is carried out under an authorisation by a competent authority in a Member State, if such authorisation ***was illegal, breached the national or Union law, if it*** was obtained fraudulently, or by corruption, extortion or coercion. ***An authorisation that has breached the relevant Union legislation, irrespective of the eventual result of having issued the authorisation should also be considered unlawful.*** Moreover, operators should take the necessary steps to comply with the legislative, regulatory and administrative provisions concerning the protection of environment applicable when they carry out the respective activity, including by complying with their obligations, as laid down in applicable EU and national laws, in procedures governing amendments or updates to existing authorisations. ***Member States should criminalise autonomous and general categories of environmental offences by creating an offence of endangering the environment when a conduct directly or indirectly exposes the environment to an immediate risk of substantial damage or when a person knowingly acts in a manner that causes a substantial damage to the environment. Public authorities or bodies should not be excluded from being prosecuted for committing, inciting, aiding, abetting or attempting environmental crimes.***

## Amendment 14

### Proposal for a directive Recital 9

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Amendment 15

### Proposal for a directive Recital 10

#### *Text proposed by the Commission*

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

#### *Amendment*

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

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

## Amendment 16

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 17

### Proposal for a directive Recital 12

#### *Text proposed by the Commission*

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

## Amendment 18

### Proposal for a directive Recital 12 a (new)

#### *Amendment*

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

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

## **Amendment 19**

### **Proposal for a directive**

#### **Recital 13**

*Text proposed by the Commission*

*Amendment*

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

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

## **Amendment 20**

### **Proposal for a directive**

#### **Recital 14**

*Text proposed by the Commission*

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

*Amendment*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the ***cost of reinstatement of*** the environment, exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations ***and making sentences public. The Commission should present, within one year of the entry into force of this Directive, guidance for national competent authorities, prosecutors and judges as to how to classify sanctions. In addition, guidelines should be developed by the Commission to assist the Member States in the harmonisation of sanction types and levels.*** This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

**Amendment 21**

**Proposal for a directive**

**Recital 15**

*Text proposed by the Commission*

(15) ***Where national law provides for it,*** legal persons should also be held criminally liable for environmental criminal offences according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive ***and***

*Amendment*

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

proportionate sanctions types and levels as laid down in this Directive in order to achieve its objectives. Financial situation of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed.

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

## Amendment 22

### Proposal for a directive Recital 16

#### *Text proposed by the Commission*

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

#### *Amendment*

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. As the illegal profits, expenditure that can be generated or avoided through environmental crime are an important incentive for criminals **and often fuel criminal organisations**, these should be taken into account when determining the appropriate level of sanctioning in the individual case.



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

## Amendment 23

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

*Text proposed by the Commission*

*Amendment*

***(16a) While the recognition of the crime of ecocide is currently being discussed in several national parliaments around the world and in the Union, the Union should seize the opportunity to remain a world leader in environmental protection legislation and to ensure there are harmonised definitions and sanctions ex ante, and not ex post. Member States should be urged to establish their jurisdiction over the offence of ecocide which is be defined, according to the Independent Expert Panel for the Legal Definition of Ecocide, as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused. That specific crime makes it possible to identify the most serious damage to the environment and thus to provide for a graduation of sanctions according to the gravity of the harm to the environment.***

## Amendment 24

### Proposal for a directive Recital 17

*Text proposed by the Commission*

*Amendment*

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

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

gains should be confiscated.

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

## Amendment 25

### Proposal for a directive

#### Recital 19

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

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

##### *Amendment*

(19) Member States should lay down rules concerning limitation periods necessary *for and adapted to the specificities of environmental damage, the occurrence of which is often spread over time*, in order to enable them to counter environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement. *Member States should also ensure that special measures of limitation may be applied in the case of concealment of an offence, that is to say where the offender has prevented its discovery. In that case, the time limit should run only from the day when the offence could be established under conditions that allow prosecution. Given the seriousness of the conduct concerned, there should be no limitation period for the criminal offence*

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

## Amendment 26

### Proposal for a directive

#### Recital 20

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 27

### Proposal for a directive

#### Recital 21

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 28

### Proposal for a directive Recital 22

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 29

### Proposal for a directive Recital 23

*Text proposed by the Commission*

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

*Amendment*

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

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

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

## **Amendment 30**

### **Proposal for a directive Recital 23 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 31

### Proposal for a directive Recital 24

*Text proposed by the Commission*

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

## Amendment 32

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

*Text proposed by the Commission*

*Amendment*

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

**(24a) Environmental defenders who**

*directly protect ecosystems are also often on the front line of the consequences of environmental crime worldwide, including in the Union <sup>1a</sup>. They may be directly threatened, intimidated, persecuted, harassed or even murdered by perpetrators, and as such should also benefit from balanced and effective protection. The Union's support for the establishment of an independent special rapporteur on environmental rights defenders under the Aarhus Convention, and consequently for the establishment of protection measures, is also a way to fight environmental crime more effectively.*

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*<sup>1a</sup> Global Witness (2021), Front line of defence Report.*

### **Amendment 33**

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

*Text proposed by the Commission*

*Amendment*

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

### **Amendment 34**

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

*Text proposed by the Commission*

*Amendment*

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

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

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*1<sup>a</sup> European Parliament resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society (2021/2036(INI)).*

## Amendment 35

### Proposal for a directive Recital 25

*Text proposed by the Commission*

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

*Amendment*

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



## Amendment 36

### Proposal for a directive Recital 26

*Text proposed by the Commission*

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

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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.

## Amendment 37

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

*Text proposed by the Commission*

*Amendment*

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

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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.

***(26a) The Commission should commit to***

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

### Amendment 38

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

*Text proposed by the Commission*

*Amendment*

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

### Amendment 39

#### Proposal for a directive Recital 28

*Text proposed by the Commission*

*Amendment*

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

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

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

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

## Amendment 40

### Proposal for a directive Recital 30

#### *Text proposed by the Commission*

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

#### *Amendment*

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

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

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*<sup>1a</sup> Nurse, Angus: Contemporary Perspectives on Environmental Enforcement International journal of offender therapy and comparative criminology, 2022-03, Vol.66 (4), p.327-344.*

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

## Amendment 41

### Proposal for a directive Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 42**

##### **Proposal for a directive Recital 30 b (new)**

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 43**

##### **Proposal for a directive Recital 31 a (new)**

*Text proposed by the Commission*

*Amendment*

*(31a) Due to its global impact and cross-border nature, the Union and its Member States should make the fight against environmental crime a strategic political*

*priority in international judicial cooperation and within the institutions and the Conference of the Parties to the United Nations Framework Convention on Climate Change, in particular by promoting compliance with multilateral environmental agreements through the adoption of criminal sanctions and the exchange of best practices and data on environmental crime. This international approach to environmental crime should also include extending the scope of the International Criminal Court to the crime of ecocide, and the Union and its Member States have a key role and responsibility in this regard.*

#### **Amendment 44**

##### **Proposal for a directive Recital 32**

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

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

###### *Amendment*

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission, ***and make available online to the public, relevant statistical data on environmental offences, in particular specifying the sanctions imposed on the authors of offences. In order to facilitate the work of civil society actors, and in particular environmental non-governmental organisations, Member States should set up a public platform at national level to collect data on environmental crime. At European level, the Commission should regularly assess***

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

## Amendment 45

### Proposal for a directive Recital 33

#### *Text proposed by the Commission*

(33) The statistical data collected under this Directive on environmental offences should be comparable between the Member States and collected on the basis of common minimum standards. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to define the standard format for statistical data transmission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>27</sup>.

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

## Amendment 46

### Proposal for a directive Recital 33 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

(33) The statistical data collected under this Directive on environmental offences should be comparable between the Member States and collected on the basis of common minimum standards. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to define the standard format for statistical data transmission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>27</sup>. ***Those data aggregated at European level should be available on a country-by-country basis according to the categories of information referred to in Article 21(2) of this Directive, under the supervision of Eurostat.***

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

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

#### Amendment 47

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

*Text proposed by the Commission*

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

*Amendment*

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

#### Amendment 48

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

*Text proposed by the Commission*

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

*Amendment*

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



## Amendment 49

### Proposal for a directive

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

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

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

##### *Amendment*

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

## Amendment 50

### Proposal for a directive

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

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

(2) ‘habitat within a protected site’ means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>30</sup>, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive 92/43/EEC<sup>31</sup>;

##### *Amendment*

(2) ‘habitat within a protected site’ means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>30</sup>, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive 92/43/EEC<sup>31</sup> ***or a site which is inscribed on the UNESCO World Heritage list;***

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<sup>30</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).

<sup>31</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).

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<sup>30</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).

<sup>31</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).

## Amendment 51

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 52

### Proposal for a directive

#### Article 2 – paragraph 1 – point 3

*Text proposed by the Commission*

*Amendment*

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

***(3) ‘legal person’ means any legal entity having such status under the applicable national law;***

## Amendment 53

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 54**

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

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

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 55**

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

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

*Text proposed by the Commission*

*Amendment*

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

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

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*1a*

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

## **Amendment 56**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 5 d (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 57**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 5 e (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 58**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 5 f (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 59**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 60**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

**(5h) ‘environment’ means the earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere, as well as outer space, including the integrity of all the biotic and abiotic elements of an ecosystem, their functions, services and mutual interactions and the earth’s planetary boundaries;**

## **Amendment 61**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 62**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 63**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 64**

**Proposal for a directive**

**Article 3 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 65**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 66**

**Proposal for a directive  
Article 3 – paragraph 1 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) the placing on the market of a product which, in breach of a prohibition or another requirement, causes or is likely to cause death or substantial ***harm to human health or*** damage to air, water or soil quality, or to ***biodiversity, ecosystem services and functions, environmental resilience and vitality,*** animals or plants as a result of the product's use on a larger scale;

## Amendment 67

### Proposal for a directive

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 68

### Proposal for a directive

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

*Text proposed by the Commission*

(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council<sup>34</sup>; or

*Amendment*

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

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

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

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



## Amendment 69

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

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

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

## Amendment 70

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

***(ivb) this activity is not in compliance with Directive 2009/128/EC of the European Parliament and of the Council<sup>1a</sup>;***

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***<sup>1a</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides.***

## Amendment 71

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 72

### Proposal for a directive

#### Article 3 – paragraph 1 – point c – subparagraph 2

*Text proposed by the Commission*

*Amendment*

and it causes or is likely to cause ***death or serious injury to any person or*** substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

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

## Amendment 73

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

***(ca) any conduct in breach of Regulation (EU) 2017/852 of the European Parliament and of the Council<sup>1a</sup>;***

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***<sup>1a</sup> Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008.***

## **Amendment 74**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

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

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

## **Amendment 75**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 76**

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

*Text proposed by the Commission*

*Amendment*

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

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***<sup>1a</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.***

## **Amendment 77**

### **Proposal for a directive Article 3 – paragraph 1 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

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

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***<sup>1a</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.***

## **Amendment 78**

### **Proposal for a directive Article 3 – paragraph 1 – point e – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 79**

**Proposal for a directive**

**Article 3 – paragraph 1 – point e – point i**

*Text proposed by the Commission*

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup> **and is undertaken in a non-negligible quantity**;

*Amendment*

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup>;

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

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

**Amendment 80**

**Proposal for a directive**

**Article 3 – paragraph 1 – point e – point ii**

*Text proposed by the Commission*

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or **serious injury to any person or** substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

*Amendment*

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

## Amendment 81

### Proposal for a directive

#### Article 3 – paragraph 1 – point h

*Text proposed by the Commission*

(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the 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;***

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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).

*Amendment*

(h) the ship-source discharges of polluting substances ***as defined in Article 3(2) of Directive 2008/56/EC and/or*** referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the 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;

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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).

## Amendment 82

### Proposal for a directive

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

*Text proposed by the Commission*

(i) the installation, operation or dismantling of an installation in which a dangerous activity is carried out or in which dangerous substances, preparations or pollutants are stored or used falling within the scope of Directive 2012/18/EU of the European Parliament and of the Council<sup>43</sup>, Directive 2010/75/EU of the

*Amendment*

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

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

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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).

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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>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).

<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).

## Amendment 83

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

#### *Text proposed by the Commission*

(j) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom<sup>46</sup>, Council Directive 2014/87/Euratom<sup>47</sup> or Council Directive

#### *Amendment*

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

2013/51/Euratom<sup>48</sup>, which causes or is likely to cause death or *substantial harm to human health* or substantial damage to the quality of air, the quality of soil or the quality of water, or to *biodiversity, ecosystem services and functions, environmental resilience and vitality*, animals or plants;

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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).

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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>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).

<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 84

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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



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

## **Amendment 85**

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

*Text proposed by the Commission*

*Amendment*

*(ka) committing a serious infringement within the meaning of Article 90 of Regulation (EC) No 1224/2009 of the European Parliament and of the Council<sup>1a</sup>;*

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

## **Amendment 86**

### **Proposal for a directive Article 3 – paragraph 1 – point l**

*Text proposed by the Commission*

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes *IV and V* (*when* species in Annex *V* are subject to the same measures as those adopted for species in Annex *IV*) to Council Directive 92/43/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;***

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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).

## **Amendment 87**

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

*Text proposed by the Commission*

*Amendment*

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

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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).

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

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

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*<sup>1a</sup> Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens.*

*<sup>1b</sup> Council Directive 2007/43/EC of 28 June 2007 laying down minimum rules for the protection of chickens kept for meat production.*

*<sup>1c</sup> Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs.*

*<sup>1d</sup> Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves.*

*<sup>1e</sup> Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations.*

*<sup>1f</sup> Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing.*

## **Amendment 88**

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 89

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

*Text proposed by the Commission*

(m) trading in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A **and B** to Council Regulation (EC) No 338/97<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, only as regards imports, in Annex C** to Council Regulation (EC) No 338/97<sup>51</sup>;

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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 90

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

*Text proposed by the Commission*

(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council<sup>52</sup>, **except for cases where the conduct concerns a negligible quantity**; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of **Article 3** of that Regulation.]

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

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

## **Amendment 91**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

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

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

## Amendment 92

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

**(nb) illegal logging;**

## Amendment 93

### Proposal for a directive

#### Article 3 – paragraph 1 – point o

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 94

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

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

## **Amendment 95**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 96**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 97**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 98**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 99**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 100**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

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

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

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



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

## **Amendment 101**

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

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 102**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 103**

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

*Text proposed by the Commission*

3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into

*Amendment*

3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into

account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation, prosecution **and adjudication** of offences referred to in **paragraph 1, points (a) to (e), (i), (j), (k) and (p)**:

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

#### **Amendment 104**

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

*Text proposed by the Commission*

(c) severity of the damage;

*Amendment*

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

#### **Amendment 105**

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

*Text proposed by the Commission*

(d) spread of the damage;

*Amendment*

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

## **Amendment 106**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 107**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 108**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 109**

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 110

### Proposal for a directive

#### Article 3 – paragraph 4 – introductory part

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 111

### Proposal for a directive

#### Article 3 – paragraph 4 – point a

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 112

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 113

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 114**

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

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

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 115**

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

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 116

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 117

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 118

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 119

### Proposal for a directive Article 3 – paragraph 5 – point c b (new)

*Text proposed by the Commission*

*Amendment*

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

*use only;*

**Amendment 120**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 121**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 122**

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 123

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 124

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 125

### Proposal for a directive Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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



## Amendment 126

### Proposal for a directive Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

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

## Amendment 127

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 128

### Proposal for a directive Article 5 – paragraph 4

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 129

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 130

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 131

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 132

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

*Text proposed by the Commission*

*Amendment*

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

### **Amendment 133**

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

*Text proposed by the Commission*

*Amendment*

(b) fines;

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

### **Amendment 134**

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

*Text proposed by the Commission*

*Amendment*

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

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

### **Amendment 135**

#### **Proposal for a directive Article 5 – paragraph 5 – point d**

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 136

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 137

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 138

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 139

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 140

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 141

### Proposal for a directive Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 142

### Proposal for a directive Article 6 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

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

***deleted***

## Amendment 143

### Proposal for a directive Article 6 – paragraph 1 – point b

*Text proposed by the Commission*

*Amendment*

***(b) an authority to take decisions on***

***deleted***

*behalf of the legal person;*

#### **Amendment 144**

##### **Proposal for a directive Article 6 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

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

**deleted**

#### **Amendment 145**

##### **Proposal for a directive Article 6 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 146**

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 147

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 148

### Proposal for a directive Article 7 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 149

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 150

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

*Text proposed by the Commission*

(a) criminal or non-criminal fines;

*Amendment*

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

## Amendment 151

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 152

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 153

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

*Text proposed by the Commission*

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

*Amendment*

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



procedures, grants and concessions;

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

#### **Amendment 154**

##### **Proposal for a directive Article 7 – paragraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 155**

##### **Proposal for a directive Article 7 – paragraph 2 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 156**

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

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 157**

##### **Proposal for a directive Article 7 – paragraph 2 – point j a (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 158**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 159**

### **Proposal for a directive**

#### **Article 7 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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

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

## **Amendment 160**

### **Proposal for a directive**

#### **Article 7 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

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

4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) are punishable by fines, the maximum limit of which shall be not less than **12%** of the total worldwide turnover of the legal person[/undertaking]

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

in the business year preceding the fining decision.

#### **Amendment 161**

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

*Text proposed by the Commission*

*Amendment*

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

**deleted**

#### **Amendment 162**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 163**

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

*Text proposed by the Commission*

*Amendment*

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

*environment;*

#### **Amendment 164**

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

##### **Article 8 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

(a) the offence caused the death of, or serious injury to, a person, ***livestock or companion animals, or has resulted in a large-scale impact on a wildlife stock.***

#### **Amendment 165**

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

##### **Article 8 – paragraph 1 – point b**

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 166**

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

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 167

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 168

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

*Text proposed by the Commission*

*Amendment*

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

(c) the offence was committed **within** a criminal organisation **in the sense** of Council Framework Decision 2008/841/JHA<sup>56</sup> ;

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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.

## Amendment 169

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 170

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

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 171**

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

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 172**

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

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 173**

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

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 174**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 175**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 176**

**Proposal for a directive  
Article 9 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 177**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 178**

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

*Text proposed by the Commission*

Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the 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.

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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).

*Amendment*

**1.** Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the 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.

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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).

**Amendment 179**

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

*Text proposed by the Commission*

*Amendment*

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



## **Amendment 180**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 181**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 182**

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

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 183**

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

*Text proposed by the Commission*

*Amendment*

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

*for genuine educational and conservation purposes or shall be destroyed.*

#### **Amendment 184**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 185**

##### **Proposal for a directive Article 11 – title**

*Text proposed by the Commission*

*Amendment*

Limitation periods for criminal offences

Limitation periods for criminal offences  
*and the introduction of custodial penalties*

#### **Amendment 186**

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

*Text proposed by the Commission*

*Amendment*

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

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

referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

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

#### **Amendment 187**

##### **Proposal for a directive Article 11 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 188**

##### **Proposal for a directive Article 11 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 189**

##### **Proposal for a directive Article 11 – paragraph 2 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 190**

**Proposal for a directive**

**Article 11 – paragraph 2 – point a**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 191**

**Proposal for a directive**

**Article 11 – paragraph 2 – point b**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 192**

**Proposal for a directive**

**Article 11 – paragraph 2 – point c**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 193**

**Proposal for a directive**

**Article 11 – paragraph 4 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 194**

**Proposal for a directive**

**Article 12 – paragraph 1 – point d**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 195**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

*territory;*

#### **Amendment 196**

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

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 197**

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

##### **Article 12 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 198**

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

##### **Article 12 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

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

**deleted**

#### **Amendment 199**

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

##### **Article 12 – paragraph 2 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) the offence has created a severe risk**

**(c) the offence has created a severe risk**

for the environment on its territory.

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

## **Amendment 200**

### **Proposal for a directive Article 12 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 201**

### **Proposal for a directive Article 12 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 202**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 203**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 204**

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

*Text proposed by the Commission*

*Amendment*

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



*regularly on the received reports.*

#### **Amendment 205**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 206**

##### **Proposal for a directive Article 14 – title**

*Text proposed by the Commission*

*Amendment*

**Rights for the public *concerned to participate in proceedings***

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

#### **Amendment 207**

##### **Proposal for a directive Article 14 – paragraph -1**

*Text proposed by the Commission*

*Amendment*

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

*accessible to the public.*

## Amendment 208

### Proposal for a directive Article 14 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 209

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

*Text proposed by the Commission*

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

*Amendment*

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

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

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

## Amendment 210

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 211

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

*Text proposed by the Commission*

*Amendment*

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

*all relevant enforcement authorities.*

## Amendment 212

### Proposal for a directive Article 17 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations to provide at regular intervals specialised training to *ensure the effective achievement of* the objectives of this Directive and appropriate to the functions of the involved staff and authorities. *The specialised training shall also provide tools to effectively fight financial crimes and cybercrimes.*

## Amendment 213

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 214

### Proposal for a directive Article 18 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 215

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 216

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

*Text proposed by the Commission*

*Amendment*

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

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

#### **Amendment 217**

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

*Text proposed by the Commission*

*Amendment*

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

#### **Amendment 218**

##### **Proposal for a directive Article 19 a (new)**

*Text proposed by the Commission*

*Amendment*

##### *Article 19a*

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

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

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

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

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

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

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

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

## Amendment 219

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 220

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 221

### Proposal for a directive Article 20 – paragraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

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

## Amendment 222

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

*Text proposed by the Commission*

*Amendment*

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



## Amendment 223

### Proposal for a directive

#### Article 20 – paragraph 1 – point f

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 224

### Proposal for a directive

#### Article 20 – paragraph 2

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 225

### Proposal for a directive

#### Article 21 – paragraph 2 – point b

*Text proposed by the Commission*

(b) the number of environmental crime cases investigated;

*Amendment*

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

## Amendment 226

### Proposal for a directive

#### Article 21 – paragraph 2 – point c

*Text proposed by the Commission*

(c) the average length of the criminal

*Amendment*

(c) the average length of the criminal

investigations of environmental crimes;

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

#### **Amendment 227**

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

##### **Article 21 – paragraph 2 – point g**

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 228**

##### **Proposal for a directive**

##### **Article 21 – paragraph 3**

*Text proposed by the Commission*

3. Member States shall *ensure that a consolidated review of their statistics is regularly published*.

*Amendment*

3. Member States shall *publish annually the statistical data referred to in paragraph 2 in a standard, accessible and comparable format established in accordance with Article 22 and in a raw version*.

#### **Amendment 229**

##### **Proposal for a directive**

##### **Article 21 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard format established in accordance with Article 22.

*Amendment*

4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard *accessible and comparable* format established in accordance with Article 22. *Those data aggregated at Union level shall be available on a country-by-country basis according to the categories of information referred to in paragraph 2, under the supervision of*

**Amendment 230**

**Proposal for a directive**

**Article 21 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. The Commission and Member States shall create at Union level, a database on the number of actions carried out in the field of environmental crimes by law enforcement bodies, on a platform that would allow unitary collection of data and increase the degree of digitalisation.**

**Amendment 231**

**Proposal for a directive**

**Article 22 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Commission shall be empowered to adopt implementing acts establishing the standard format for data transmission referred to in Article 21(4). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).

1. The Commission shall be empowered to adopt implementing acts establishing the standard format **and timeline** for data transmission referred to in Article 21(4). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).

**Amendment 232**

**Proposal for a directive**

**Article 22 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

(a) a common classification of environmental crimes;

(a) a common classification of environmental crimes **as well as sanctions that are effective, dissuasive and proportionate to the offence committed;**

## Amendment 233

### Proposal for a directive Article 22 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. The Commission shall be empowered to adopt implementing acts establishing the standard format and timeline for the transmission of the information used in the preparation of the evaluation reports referred to in Article 25. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).**

## Amendment 234

### Proposal for a directive Article 25 – title

*Text proposed by the Commission*

*Amendment*

Evaluation *and* reporting

Evaluation, reporting *and guidelines*

## Amendment 235

### Proposal for a directive Article 25 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The Commission shall by [OP – please insert the date - two years after the transposition period is over], submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.

1. The Commission shall by [OP – please insert the date - two years after the transposition period is over] **and every two years thereafter**, submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive, **and providing recommendations to Member States**. Member States shall provide the Commission with the necessary information for the preparation of that report, **including the statistical data**

*referred to in Article 21 of this Directive, the qualitative and quantitative data relative to the indicators of performance referred to in point 1.4.4 of the legislative financial statement that forms part of the Commission proposal for this Directive, and any other information that may be deemed relevant.*

## **Amendment 236**

### **Proposal for a directive Article 25 – paragraph 2**

*Text proposed by the Commission*

2. Every two years as of [OP – please insert the date one year after the transposition period is over], Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with Articles **15 to 17, 19 and 20**.

*Amendment*

2. Every two years as of [OP – please insert the date one year after the transposition period is over], Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with Articles **3 to 20**.

## **Amendment 237**

### **Proposal for a directive Article 25 – paragraph 3**

*Text proposed by the Commission*

3. By [OP – please insert the date - five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.

*Amendment*

3. By [OP – please insert the date - five years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report ***including the statistical data referred to in Article 21 of this Directive, and the qualitative and quantitative data relative to the indicators of performance referred to in point 1.4.4 of the legislative financial statement that forms part of the Commission proposal for this Directive,***

*and any other information that may be deemed relevant to ensure compliance with paragraph 1 of this Article, such as information on the environmental impact of each of the offences described in Article 3 of this Directive. The Commission shall ensure that a regular update of criminal offences as laid down in Article 3 is carried out.*

#### **Amendment 238**

##### **Proposal for a directive Article 25 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a.** *The Commission shall effectively coordinate the reporting by Member States of statistical data referred to in Article 21 and of any information necessary for the preparation of the evaluation reports referred to in paragraphs 1, 2 and 3 of this Article.*

#### **Amendment 239**

##### **Proposal for a directive Article 25 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**3b.** *By one year after the entry into force of this Directive, the Commission shall present a report on homogeneous and harmonised classification of environmental crimes prepared with the Member States and a regulatory classification of sanctions adapted to provide guidance to national competent authorities, prosecutors and judges in the application of the sanctions provided for in this Directive.*

## Amendment 240

### Proposal for a directive

#### Article 25 – paragraph 3 c (new)

*Text proposed by the Commission*

*Amendment*

**3c. By ... [OJ: please insert the date one year after the entry into force of this Directive], notwithstanding Article 119 of Regulation 2017/1939<sup>1a</sup>, the Commission shall produce a report on extending the powers of the European Public Prosecutor's Office provided for in Article 86 of the Treaty on the Functioning of the European Union to include serious environmental crimes that are detrimental to the interest of the Union. The European Public Prosecutor's Office shall thus be empowered to request independent investigations and to initiate legal proceedings in respect of environmental damage and environmental crime on a European scale. The report shall assess how the powers of the European Public Prosecutor's Office should be extended to serious environmental crimes. The report shall be accompanied by a legislative proposal for a revision of Directive 2017/1371 to include environmental crimes to the criminal offences covered by the Directive and an extension of the EPPO's mandate to cover serious environmental crimes.**

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<sup>1a</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1–71)

## Amendment 241

### Proposal for a directive

#### Article 25 – paragraph 3 d (new)

*Text proposed by the Commission*

*Amendment*

**3d. By ... [OJ: please insert the date one year after the entry into force of this Directive], the Commission shall present guidelines to clarify the procedural framework for the participation of members of the public in the criminal prosecution of environmental offences, including the definition of easily accessible admissibility criteria.**

## **Amendment 242**

### **Proposal for a directive Article 25 – paragraph 3 e (new)**

*Text proposed by the Commission*

*Amendment*

**3e. By ... [OJ: please insert the date two years after the entry into force of this Directive], the Commission shall present a report on how environmental crime negatively impacts upon the environment, the One Health approach and the exceedance of planetary boundaries.**

## **Amendment 243**

### **Proposal for a directive Article 27 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 27a*

***Amendments to Directive (EU) 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law***

***Directive (EU) 2017/1371 is amended as follows:***

***(1) the title is replaced by the following:***



***“Directive 2017/1371 of the European Parliament and of the Council on the fight against fraud to the Union's financial interests and cross-border protection of the environment by means of criminal law”;***

***(2) in Article 18, the following paragraph is inserted:***

***“By 31 December 2024 the Commission shall present a legislative proposal on inclusion of environmental crimes in the criminal offences covered by this Directive and on the creation of the office of the Green European Public Prosecutor.”***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Protection of the environment through criminal law and replacing Directive 2008/99/EC
<b>References</b>	COM(2021)0851 – C9-0466/2021 – 2021/0422(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 27.1.2022
<b>Opinion by</b> Date announced in plenary	ENVI 27.1.2022
<b>Rapporteur for the opinion</b> Date appointed	Sirpa Pietikäinen 11.3.2022
<b>Discussed in committee</b>	2.6.2022
<b>Date adopted</b>	25.10.2022
<b>Result of final vote</b>	+: 43 –: 37 0: 1
<b>Members present for the final vote</b>	Maria Arena, Bartosz Arłukowicz, Marek Paweł Balt, Traian Băsescu, Hildegard Bentele, Sergio Berlato, Alexander Bernhuber, Malin Björk, Delara Burkhardt, Pascal Canfin, Mohammed Chahim, Tudor Ciuhodaru, Nathalie Colin-Oesterlé, Esther de Lange, Christian Doleschal, Cyrus Engerer, Agnès Evren, Pietro Fiocchi, Hélène Fritzon, Malte Gallée, Gianna Gancia, Andreas Glück, Catherine Griset, Teuvo Hakkarainen, Anja Hazekamp, Martin Hojsík, Jan Huitema, Yannick Jadot, Petros Kokkalis, Ewa Kopacz, Joanna Kopcińska, Peter Liese, César Luena, Marian-Jean Marinescu, Fulvio Martusciello, Marina Mesure, Tilly Metz, Silvia Modig, Ljudmila Novak, Grace O’Sullivan, Jutta Paulus, Jessica Polfjärd, Luisa Regimenti, Frédérique Ries, María Soraya Rodríguez Ramos, Sándor Rónai, Silvia Sardone, Ivan Vilibor Sinčić, Maria Spyraki, Nicolae Ștefănuță, Nils Torvalds, Edina Tóth, Véronique Trillet-Lenoir, Alexandr Vondra, Mick Wallace, Pernille Weiss, Emma Wiesner, Michal Wiezik, Tiemo Wölken
<b>Substitutes present for the final vote</b>	Matteo Adinolfi, Antoni Comín i Oliveres, Matthias Ecke, Romana Jerković, Ska Keller, Marlene Mortler, Robert Roos, Marcos Ros Sempere, Róza Thun und Hohenstein, István Ujhelyi, Sarah Wiener
<b>Substitutes under Rule 209(7) present for the final vote</b>	Christine Anderson, Damien Carême, Lena Düpont, Alicia Homs Ginel, Virginie Joron, Leopoldo López Gil, Theresa Muigg, Rob Rooker, Dorien Rookmaker, Caroline Roose, Mounir Satouri



## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

43	+
NI	Antoni Comín i Oliveres
PPE	Leopoldo López Gil
Renew	Pascal Canfin, Martin Hojsík, Frédérique Ries, María Soraya Rodríguez Ramos, Nicolae Ștefănuță, Róza Thun und Hohenstein, Nils Torvalds, Véronique Trillet-Lenoir, Michal Wiezik
S&D	Maria Arena, Marek Paweł Balt, Delara Burkhardt, Mohammed Chahim, Tudor Ciuhodaru, Matthias Ecke, Cyrus Engerer, Heléne Fritzon, Alicia Homs Ginel, Romana Jerković, César Luena, Theresa Muigg, Marcos Ros Sempere, Sándor Rónai, István Ujhelyi, Tiemo Wölken
The Left	Malin Björk, Anja Hazekamp, Petros Kokkalis, Marina Mesure, Silvia Modig, Mick Wallace
Verts/ALE	Damien Carême, Malte Gallée, Yannick Jadot, Ska Keller, Tilly Metz, Grace O'Sullivan, Jutta Paulus, Caroline Roose, Mounir Satouri, Sarah Wiener

37	-
ECR	Sergio Berlato, Pietro Fiocchi, Joanna Kopcińska, Rob Rooken, Dorien Rookmaker, Robert Roos, Alexandr Vondra
ID	Matteo Adinolfi, Christine Anderson, Gianna Gancia, Catherine Griset, Teuvo Hakkarainen, Virginie Joron, Silvia Sardone
NI	Edina Tóth
PPE	Bartosz Arłukowicz, Traian Băsescu, Hildegard Bentele, Alexander Bernhuber, Nathalie Colin-Oesterlé, Esther de Lange, Christian Doleschal, Lena Düpont, Agnès Evren, Ewa Kopacz, Peter Liese, Marian-Jean Marinescu, Fulvio Martusciello, Marlene Mortler, Ljudmila Novak, Jessica Polfjård, Luisa Regimenti, Maria Spyraiki, Pernille Weiss
Renew	Andreas Glück, Jan Huitema, Emma Wiesner

1	0
NI	Ivan Vilibor Sinčić

Key to symbols:

+ : in favour

- : against

0 : abstention



6.2.2023

## OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law  
(COM(2021)0851 – C9-0466/2021 – 2021/0422(COD))

Rapporteur for opinion: Saskia Bricmont

### SHORT JUSTIFICATION

According to the UNEP and INTERPOL, environmental crimes are rising and have become the fourth largest criminal sector in the world putting at risk the environment, the biodiversity and the climate. Environmental criminality is growing at a rate of between 5 % and 7 % per year and growing two to three times faster than the global economy, and is now as lucrative as illegal drug trafficking. This type of criminality deprives countries and populations from billions of euros of economic revenues annually, threatens fundamental rights, fuels insecurity and organized crime, and puts social structures at risk.

The current Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law aims primarily at improving environmental protection by means of harmonized criminal legislation. However, many shortcomings and loopholes have been identified, i.e. limited scope, inadequacy of sanctions, low levels of fines; lack of implementation and cooperation between Member States; lack of access to justice; lack of statistical data; lack of specialized jurisdictions, etc.

The Rapporteur welcomes the proposal made by the European Commission, notably regarding the broadening of its scope; the strengthening of its provisions related to criminal sanctions and the provision of mechanisms to protect environmental defenders. However, the Rapporteur believes that further changes are needed to tackle environmental crime effectively.

The Rapporteur proposes the **inclusion of general and autonomous definitions of environmental offenses**. Despite the growing number of environmental offenses, a harmonized definition of environmental crimes does not yet exist either at the worldwide or at European and national level. Instead, the current system relies upon a list of secondary legislation, leaving out large parts of EU environmental law. Therefore, introducing autonomous crimes would enable criminal liability for serious cases of environmental harm and give rights to the nature.

The rapporteur is also in favour of **introducing a crime of ecocide**, in order to criminalize the most serious crimes to the environment. The EU should defend the jurisdiction of the International Criminal Court to cover criminal acts that amount to ecocide. In parallel, the EU and its Member States should take the lead for its recognition. The introduction of a crime of

ecocide in the remit of this Directive is of particular importance to preventing and prosecuting the most serious transnational environmental crimes in both EU and third countries, including developing countries. The definition used is the one developed by the Independent Expert Panel for the Legal Definition of Ecocide published in June 2021, a group of international criminal lawyers, environmental lawyers and legal scholars. It is the most comprehensive and recent definitional work available at the moment.

Given the high financial impact of environmental offenses, their potential link with other serious financial crimes, as well as their cross-border nature, the European Public prosecutor would be best placed to exert its competences on the serious environmental crimes with a cross-border dimension. The Rapporteur recommends that the Commission should assess the possibility to **extend the mandate of the EPPO**, to include serious environmental crimes.

To investigate and prosecute environmental crime effectively, the Rapporteur suggests the development of **specialized jurisdictions** at national level that would be able to effectively detect, investigate, and prosecute environmental crime, as well as to cooperate with other Member States authorities, including through the sharing of good practices and expertise. Such bodies should be provided with adequate financial and human resources.

Acknowledging the crucial role played by **civil society and environmental defenders**, the Rapporteur proposes strengthening their protection, including against Strategic lawsuits against public participation as well as their capacity to stand in legal proceedings. To facilitate reporting of crime, contact points should be created at EU and national level.

Environmental crimes are very lucrative for perpetrators, the Rapporteur proposes several provisions in order to strengthen **financial reparation** obligation but also on confiscation of related assets.

In order to guarantee **compensation to victims** of environmental crimes and ensure effective ecological and environmental restoration, the Rapporteur proposes that Member States should establish a dedicated national fund to finance actions aimed at these purposes.

As **public authorities** have a duty to set an example, there is no reason to exclude them from the obligations of this Directive, which is why the Rapporteur includes public authorities among the entities covered by the provisions of the Environmental Crime Directive.

## AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

(2) The Union continues to be concerned with the rise in environmental criminal offences and their effects, which undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly extending beyond the borders of the Member States in which the offences are committed. Such offences pose a threat to the environment and therefore call for an appropriate *and* effective response.

*Amendment*

(2) The Union continues to be concerned with the rise in environmental criminal offences and their effects, which undermine the effectiveness of Union environmental legislation. These offences are moreover increasingly extending beyond the borders of the Member States in which the offences are committed. ***In just a few decades, environmental crime has become the fourth-largest criminal activity in the world, growing at a rate of between 5% and 7% per year and growing two to three times faster than the global economy, and is now as lucrative as illegal drug trafficking.*** Such offences pose a threat to the environment, ***climate, human health as well as to human rights and fundamental freedoms,*** and therefore call for an appropriate, effective ***and timely*** response. ***The improvement of cross-border cooperation that works in a more systematic manner between competent national and European authorities would help to better implement European environmental criminal law.***

## Amendment 2

### Proposal for a directive Recital 3

*Text proposed by the Commission*

(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the 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

*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. The reliance on administrative sanctions by Member States has, to date, proven to be insufficient to ensure compliance with the rules on*** protection of the environment. Compliance should be strengthened by the



administrative penalties.

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).

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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

#### Proposal for a directive Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3 a) Despite the growing number of environmental crimes, a harmonised and accepted definition of environmental crimes does not yet exist either at the global or at Union and national level. This Directive should provide an autonomous definition of environmental crime, in addition to the Union-wide common set of definitions of specific environmental offences.***

### Amendment 4

#### Proposal for a directive Recital 4

*Text proposed by the Commission*

*Amendment*

(4) The effective investigation, prosecution and adjudication of environmental criminal offences should be improved. The list of environmental criminal offences which were set out in Directive 2008/99/EC should be revised and additional categories of offences based on the most serious breaches of Union environmental law should be added.

(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.

Provisions on sanctions *and penalties* should be strengthened *and reflect the nature and gravity of the damage caused* in order to enhance their deterrent *and reparatory* effect, as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.

## Amendment 5

### Proposal for a directive Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4 a) While the recognition of the crime of ecocide is currently being discussed in several national parliaments around the world and in the EU, the EU should seize this issue to remain a world leader in environmental protection legislation and to ensure harmonised definition and sanctions. Member States should therefore introduce, in their national legislation, a crime of ecocide, which should be considered a criminal offence for the purposes of this Directive and be defined as unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused. This specific crime makes it possible to criminalise the most serious damages to the environment and adopt sanctions according to the gravity of the harm to the environment. The EU should ensure accountability and liability in the fight against environmental crime and to make it a strategic political priority in international judicial cooperation and by promoting the enlargement of the scope of the International Criminal Court to recognise criminal acts that amount to ecocide under the Rome Statute.***

## Amendment 6

### Proposal for a directive Recital 6

#### *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).

## Amendment 7

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally **and, in certain cases, also** when committed with serious negligence. Illegal conduct that causes death or serious injury of persons, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly harmful to the environment constitutes a criminal offence when committed with

##### *Amendment*

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally **or** when committed **at least** with serious negligence. Illegal conduct that causes death or serious injury of persons, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly harmful to the environment **or human health** constitutes a criminal offence when committed with **at least**

serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

## Amendment 8

### Proposal for a directive Recital 8

#### *Text proposed by the Commission*

(8) A conduct should be considered unlawful also when it is carried out under 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.

## Amendment 9

### Proposal for a directive Recital 9

#### *Text proposed by the Commission*

(9) The environment should be protected in a wide sense, as set out under Article 3 (3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, wild fauna and flora including habitats - as well as services provided by natural resources.

#### *Amendment*

(9) The environment should be protected in a wide sense, as set out under Article 3 (3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, wild fauna and flora including habitats, ***ecosystems and species populations*** - as well as services provided by natural resources. ***Similarly, environmental damage should also be understood in a wide sense, as comprising not only the market value of the damaged***

*natural resources, but also the ecological and societal values of the services provided by those natural resources.*

## **Amendment 10**

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union legislation falling within the scope of criminal offences defined under this Directive, when the obligations under Union law remain unchanged in substance. However, when new legal instruments prohibit new conduct harmful to the environment, this Directive should be amended in order to add to the categories of criminal offences also the new serious breaches of Union environmental law.

##### *Amendment*

(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also ***automatically*** cover any updated or amended Union legislation falling within the scope of criminal offences defined under this Directive, when the obligations under Union law remain unchanged in substance. However, when new legal instruments prohibit new conduct harmful to the environment, this Directive should be amended in order to add to the categories of criminal offences also the new serious breaches of Union environmental law. ***In such cases, the amendment of the Directive should be limited to the incorporation of new criminal offences and only concern Article 3 and related provisions of the Directive in order to reflect such new incorporation.***

## **Amendment 11**

### **Proposal for a directive**

#### **Recital 11**

*Text proposed by the Commission*

(11) Qualitative and quantitative thresholds used to define environmental criminal offences should be clarified by providing a non-exhaustive list of circumstances which should be taken into account when assessing such thresholds by authorities which investigate, prosecute and adjudicate offences. This should promote the coherent application of the Directive and a more effective fight against environmental crimes as well as provide for legal certainty. However, such thresholds or their application should not make the investigation, prosecution or adjudication of criminal offences 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 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. ***In order to ensure a consistent and coherent approach among Member States, the Commission should issue guidelines to facilitate, in accordance with national and European environmental law, a harmonised understanding across Member States of the qualitative and quantitative thresholds to assess the nature and entity of the damage for the purposes of the investigation, prosecution and adjudication of offences. The guidelines should be science-based, produced in cooperation with relevant experts and other relevant stakeholders and may include a summary of existing relevant case law, real-life examples or common benchmarks.***

**Amendment 12**

**Proposal for a directive  
Recital 12**

*Text proposed by the Commission*

(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact

*Amendment*

(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact

the environment. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. In this respect, it is of particular concern that some environmental crimes are committed with the tolerance or active support of the competent administrations or officials performing 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.

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.***

### Amendment 13



**Proposal for a directive**  
**Recital 14**

*Text proposed by the Commission*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the obligation to reinstate the environment, exclusion from access to public funding, including tender procedures, grants **and** 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.*** 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 ***or finance its reinstatement within a reasonable timeframe, where such reinstatement is possible, compensation for the damage caused, obligation to finance measures that contribute to the conservation and/or preservation of the environment,*** exclusion from access to public funding, including tender procedures, grants, concessions ***and licenses,*** and withdrawal of permits and authorisations. ***When offences are committed by public officials, sanctions should also include disqualification from functions and bans on running for elected or public office.*** This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases. ***However, given that the main victim of the offences referred to in this Directive is the environment as such, the use of sanctions that lead to the reinstatement of the environment should be encouraged whenever possible.***

## Amendment 14

### Proposal for a directive Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

***(14 a) In order to ensure the deterrent as well as educational effect of sanctions, it is important to first ensure the identification, tracing, seizing, freezing and definitive confiscation of all the proceeds from and instrumentalities used or intended to be used in the commission or contribution to the commission of environmental offences. Member States should ensure that such proceeds or instrumentalities can be identified, traced, frozen, seized and confiscated even when their ownership has been changed on purpose. Where live animals are subject to seizing, Member States should ensure that their competent authorities are able to adopt interim measures regarding their placement pending the investigation, prosecution or adjudication of the offence with the aim of ensuring adequate care for them.***

## Amendment 15

### Proposal for a directive Recital 15

*Text proposed by the Commission*

*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

(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.

of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed. ***Considering the importance of due diligence to prevent and mitigate the potential adverse impact of corporate activities on the environment and human rights, the violation of relevant legal, administrative or judicial obligations should be included among the aggravating circumstances of an environmental offence.***

## Amendment 16

### Proposal for a directive Recital 16

#### *Text proposed by the Commission*

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case.

#### *Amendment*

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case. ***For the same purpose the extent of damage caused or likely caused should also be taken into account.***

## Amendment 17

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have made financial gains, such gains should be confiscated.

*Amendment*

(17) Where the crimes are of a continuing nature ***or could have substantial or even irreversible consequences on the environment***, they should be brought to an end as soon as possible. Where offenders have made financial gains, such gains should be confiscated. ***Member States should take the necessary measures to ensure that confiscated proceeds derived from and instrumentalities of the environmental crime will address the consequences of those crimes and be used to finance and cover the costs associated to environmental restoration and to damage compensation and reparation.***

**Amendment 18**

**Proposal for a directive**  
**Recital 17 a (new)**

*Text proposed by the Commission*

*Amendment*

***(17 a) In order to guarantee compensation to victims of environmental crimes and ensure effective ecological and environmental restoration, Member States should establish a dedicated national fund to finance actions aimed at these purposes. Confiscated proceeds derived from the offence and instrumentalities used or intended to be used in the commission or contribution to the commission of the offence should be allocated, where applicable, to that fund.***

**Amendment 19**

**Proposal for a directive**  
**Recital 17 b (new)**

*Text proposed by the Commission*

*Amendment*

***(17 b) Member States should lay down rules providing for the immediate cessation or prevention, on a precautionary basis, of unlawful conducts to avert the occurrence of an environmental damage, to mitigate such damage or to avoid further negative consequences.***

**Amendment 20**

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

*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.

(19) Member States should lay down rules concerning limitation periods necessary in order to enable them to counter environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement. ***Limitations periods for investigation, prosecution, trial and judicial adjudication of environmental crimes should reflect the gravity of the offence. For the investigation, prosecution, trial and adjudication of the ecocide offences there should not be limitation period. Given that some types of environmental crimes are detected long after they were committed, the limitation periods should commence from the time of the detection of the offence where the offence was concealed or discovered at a later moment than that of its commission.***

**Amendment 21**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) The obligations in this Directive to provide for criminal penalties should not exempt Member States from the obligation to provide for administrative sanctions and other measures in national law for breaches established in Union environmental legislation.

*Amendment*

(20) The obligations in this Directive to provide for criminal penalties should not exempt Member States from the obligation to provide for ***effective, proportionate and dissuasive*** administrative sanctions and other measures in national law for breaches established in Union environmental legislation.

**Amendment 22**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

(21) Member States should define the scope of administrative and criminal law enforcement clearly with regard to environmental offences according to their national law. In the application of national law transposing this Directive, Member States should ensure that the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the ***prohibition*** of ne bis in idem.

*Amendment*

(21) Member States should define the scope of administrative and criminal law enforcement clearly with regard to environmental offences according to their national law. In the application of national law transposing this Directive, Member States should ensure that the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the ***principle*** of ne bis in idem.

**Amendment 23**

**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

(22) Furthermore, judicial and administrative authorities in the Member States should have at their disposal a range of criminal sanctions and other measures to address different types of criminal

*Amendment*

(22) Furthermore, judicial and administrative authorities in the Member States should have at their disposal a range of criminal sanctions and other measures to address different types of criminal

behaviour in a tailored and effective manner.

behaviour in a tailored and effective manner. *The approximation of sanction levels across the EU should promote more effective fight against environmental crimes.*

## Amendment 24

### Proposal for a directive Recital 23

#### *Text proposed by the Commission*

(23) Given, in particular, the mobility of perpetrators of illegal **conduct** covered by this Directive, together with the cross-border nature of offences and the possibility of cross-border investigations, Member States should establish jurisdiction in order to **counter such conduct** effectively.

#### *Amendment*

(23) Given, in particular, the mobility of perpetrators of illegal **conducts** covered by this Directive **and proceeds derived from their criminal activities**, together with the cross-border nature of offences and the possibility of cross-border investigations **required to combat such crimes**, Member States should establish jurisdiction in order to **enable the competent authorities to investigate, prosecute and adjudicate such conducts** effectively, **and take the necessary measures to extend their jurisdiction in specific circumstances. In the event of a conflict of jurisdiction among two or more Member States, and pending the resolution of the conflict, Member States should still adopt all the necessary precautionary measures to prevent a damage to the environment or the further deterioration of an existing damage affecting their territory. When investigating or prosecuting the offences covered by this Directive, the competent authorities of the different Member States concerned should establish contacts, coordinate actions, exchange information, and use appropriate judicial cooperation instruments.**

## Amendment 25

### Proposal for a directive Recital 24

*Text proposed by the Commission*

(24) Environmental criminal offences harm nature and society. By reporting breaches of Union environmental law, people perform a service of public interest and play a key role in exposing and preventing such breaches, and thus safeguarding the welfare of society. Individuals in contact with an organisation in the context of their work-related activities are often the first to know about threats or harm to the public interest and the environment. Persons who report irregularities are known as whistleblowers. Potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced and 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).

*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 persons, **both natural and legal**, should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the 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).

**Amendment 26**

**Proposal for a directive**  
**Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***(24 a) The protection of the environment is also carried out by environmental defenders, who play a critical role in mitigating the effects of climate change and fighting against biodiversity loss. Environmental defenders are also on the frontline of the consequences of environmental crime worldwide,***



*including in the EU. They are very often subject to threats, intimidation, harassment, persecution, violence or even murder, and should benefit from adequate and effective protection. Environmental defenders, persons reporting irregularities as well as civil society organisations may also be subject to abusive lawsuits and threats, and should be protected from such abusive practices, also known as "Strategic lawsuits against public participation".*

## **Amendment 27**

### **Proposal for a directive Recital 24 b (new)**

*Text proposed by the Commission*

*Amendment*

*(24 b) Member States should also establish specific protection measures for persons reporting criminal offences committed in the framework of a criminal organisation or involving such an organisation.*

## **Amendment 28**

### **Proposal for a directive Recital 25**

*Text proposed by the Commission*

*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

(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

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.

assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings. ***Reporting of potential environmental criminal offences should be facilitated via an online platform. The Commission should create a reporting system allowing natural or legal persons across the EU to denounce environmental offences anonymously, and ensure that there is an appropriate follow up to serious allegations of criminal offences by the concerned Member State.***

## Amendment 29

### Proposal for a directive Recital 26

#### *Text proposed by the Commission*

(26) Since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus 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.

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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.

#### *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 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.

## Amendment 30

### Proposal for a directive Recital 28

#### *Text proposed by the Commission*

(28) The effective functioning of the enforcement chain depends on a range of specialist skills. As the complexity of the challenges posed by environmental offences and the technical nature of such crime require a multidisciplinary approach, a high level of legal knowledge, technical expertise as well as a high level of training and specialisation within all relevant competent authorities are necessary. 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 ***establishing and*** assigning specialised investigation units ***or departments***, prosecutors and criminal judges to deal with environmental criminal cases. General criminal courts could provide for specialised chambers of judges. Technical expertise should be made available to all relevant enforcement authorities ***as well as the necessary resources to perform their functions. Effective and swift cooperation mechanisms should be established across the whole law enforcement chain.***

## Amendment 31

### Proposal for a directive Recital 29

#### *Text proposed by the Commission*

(29) To ensure successful enforcement, Member States should make available

#### *Amendment*

(29) To ensure successful enforcement, Member States should make available

effective investigative tools for environmental offences such as those which exist in their national law for combating organised crime or other serious crimes. These tools should include among others the interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union. In accordance with national law, the nature and gravity of the offences under investigation should justify the use of these investigative tools. ***The right to the protection of personal data must be respected.***

effective investigative tools for environmental offences such as those which exist in their national law for combating organised crime or other serious crimes ***with cross-border dimension.*** These tools should include among others the interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the European Union ***including with the right to the respect for private and family life, and the protection of personal data.*** In accordance with national law, the nature and gravity of the offences under investigation should justify the use of these investigative tools.

## Amendment 32

### Proposal for a directive Recital 30

#### *Text proposed by the Commission*

(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal law measures, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. Following the applicable rules, Member States should also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.

#### *Amendment*

(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal law measures, Member States should organise internal cooperation, ***exchanges of good practices*** and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. ***Member States should also ensure and strengthen assistance, coordination and cooperation at strategic and operational level between each other as well as at EU level.*** Following the applicable rules, Member States should also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European Public Prosecutor's Office (EPPO) and the

European Anti-Fraud Office (OLAF), in their respective areas of competence.

### Amendment 33

#### Proposal for a directive Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

***(30 a) Given the high financial impact of environmental offences, their potential link with other serious financial crimes, as well as their cross-border nature, the European Public Prosecutor's Office, with its own powers and authority to coordinate investigations and prosecutions in cross-border cases, is best placed to exert its competences on the most serious environmental crimes with a cross-border dimension. To this end, the Commission should present a report assessing the possibility and modalities to extend the mandate of the EPPO, as provided for in Article 86 TFEU, to include serious environmental crimes that are detrimental to the interests of the Union or affect the consistent application of EU policies related to the protection of the environment.***

### Amendment 34

#### Proposal for a directive Recital 32

*Text proposed by the Commission*

*Amendment*

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used for preparing

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect ***and keep up-to-date*** accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used

statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission relevant statistical data on environmental offences. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission relevant statistical data on environmental offences. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

## Amendment 35

**Proposal for a directive**  
**Article 1 – paragraph 1**  
Directive 2008/99/EC  
Article 1

*Text proposed by the Commission*

This Directive establishes minimum rules ***concerning the definition of*** criminal offences and sanctions in order to protect the environment more effectively.

*Amendment*

This Directive establishes minimum rules ***to fight against environmental crime, defining*** criminal offences and sanctions, ***and facilitating the work of and cooperation among law enforcement and prosecuting authorities*** in order to protect the environment more effectively.

## Amendment 36

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1 a) ‘severe damage’ means damage, which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life, or natural, cultural or economic resources;***

## Amendment 37

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1 – point b**  
Directive 2008/99/EC

*Text proposed by the Commission*

(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).

**Amendment 38**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1 b) ‘long-term damage’ means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;***

**Amendment 39**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***(1 c) ‘widespread damage’ means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;***

**Amendment 40**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1 d (new)**

*Text proposed by the Commission*

*Amendment*

**(1 d) ‘wanton’ means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;**

#### **Amendment 41**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 1 e (new)**

*Text proposed by the Commission*

*Amendment*

**(1 e) ‘environment’ means the Earth, its biosphere, cryosphere, lithosphere, hydrosphere and atmosphere as well as outer space;**

#### **Amendment 42**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 1 – paragraph 1**

Directive 2008/99/EC

*Text proposed by the Commission*

*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** obtained fraudulently or by corruption, extortion or coercion;

The conduct shall be deemed unlawful even if carried out under an authorisation by a competent authority in a Member State when the authorisation **was illegal**, obtained fraudulently or by corruption, extortion or coercion;

#### **Amendment 43**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 3**

Directive 2008/99/EC

*Text proposed by the Commission*

*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

(3) ‘legal person’ means any legal entity having such status under the applicable national law, **including, where it is provided for under national law,**



*and for public international organisations;*

public bodies exercising *public powers or authority*;

#### **Amendment 44**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 4**  
Directive 2008/99/EC

*Text proposed by the Commission*

(4) ‘public concerned’ means the persons affected or likely to be affected by the offences referred to in Articles 3 or 4. For the purposes of this definition, persons having a sufficient interest or maintaining the impairment of a right as well as non-governmental organisations promoting the 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, ***3(1a)*** 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 be deemed to have an interest;*

#### **Amendment 45**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 5 a (new)**  
Directive 2008/99/EC

*Text proposed by the Commission*

*Amendment*

***(5 a) ‘illegal logging’ means any logging which breaks rules and legislation in force and is not limited to cases which involve products or commodities within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council, including conduct of a local, regional or national forest authority infringing on EU law in sphere of nature protection or on a law implementing EU strategic initiative in the sphere of nature protection;***

## Amendment 46

**Proposal for a directive**  
**Article 3 – paragraph -1 (new)**  
Directive 2008/99/EC

*Text proposed by the Commission*

*Amendment*

**-1. Member States shall ensure that, when committed intentionally or with serious negligence, unlawful acts or omissions by natural or legal persons that cause or are likely to cause a substantial damage to the environment, constitute a criminal offence, insofar as those acts or omissions are not covered by paragraphs 1 and 1a.**

## Amendment 47

**Proposal for a directive**  
**Article 3 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that the following conduct constitutes a criminal offence when it is unlawful and committed intentionally:

1. Member States shall ensure that the following conduct constitutes a criminal offence when it is unlawful and committed intentionally **or at least with serious negligence**:

## Amendment 48

**Proposal for a directive**  
**Article 3 – paragraph 1 – point a**  
Article 3

*Text proposed by the Commission*

*Amendment*

(a) the discharge, emission or introduction of a quantity of materials or substances or ionising radiation into air, soil or water which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air,

(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

the quality of soil or the quality of water, or to animals or plants;

person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

#### **Amendment 49**

##### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point b**

Article 3

###### *Text proposed by the Commission*

(b) the placing on the market of a product which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to animals or plants as a 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;

#### **Amendment 50**

##### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point c – introductory part**

Article 3

###### *Text proposed by the Commission*

(c) the manufacture, placing on the market or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

###### *Amendment*

(c) the manufacture, placing on the market, **export** or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

#### **Amendment 51**

##### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point c – paragraph 1**

###### *Text proposed by the Commission*

and it causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of

###### *Amendment*

and it causes or is likely to cause death **or substantial harm to human health**, or serious injury to any person or substantial

soil or the quality of water, or to animals or plants;

damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

## Amendment 52

### Proposal for a directive

#### Article 3 – paragraph 1 – point e – introductory part

*Text proposed by the Commission*

(e) the collection, transport, recovery or disposal of waste, the supervision of such operations and the after-care of disposal sites, including action taken as a dealer or a broker (waste management), when an unlawful conduct:

*Amendment*

(e) the collection, transport, **treatment**, recovery or disposal of waste, the supervision of such operations and the after-care of disposal sites, including action taken as a dealer or a broker (waste management), when an unlawful conduct:

## Amendment 53

### Proposal for a directive

#### Article 3 – paragraph 1 – point e – point i

*Text proposed by the Commission*

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup> **and is undertaken in a non-negligible quantity**;

*Amendment*

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup>;

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<sup>39</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3–30).

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<sup>39</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3–30).

## Amendment 54

### Proposal for a directive

#### Article 3 – paragraph 1 – point e – point ii

*Text proposed by the Commission*

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

*Amendment*

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death, **substantial harm to human health**, or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

## **Amendment 55**

### **Proposal for a directive Article 3 – paragraph 1 – point f**

*Text proposed by the Commission*

(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>40</sup> **when such shipment is undertaken in a non-negligible quantity**, whether executed in a single shipment or in several shipments which appear to be linked;

*Amendment*

(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>40</sup>, whether executed in a single shipment or in several shipments which appear to be linked;

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<sup>40</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

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<sup>40</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

## **Amendment 56**

### **Proposal for a directive Article 3 – paragraph 1 – point h**

*Text proposed by the Commission*

(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council<sup>42</sup> on ship-source pollution and on the introduction of penalties, including criminal penalties, into any of the areas

*Amendment*

(h) the ship-source discharges of **pollution referred to in Article 3(8) of the Directive 2008/56/EC or** polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council<sup>42</sup> on ship-source pollution and on the introduction of

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;

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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).

## **Amendment 57**

### **Proposal for a directive Article 3 – paragraph 1 – point i**

#### *Text proposed by the Commission*

(i) the installation, operation or dismantling of an installation in which a dangerous activity is carried out or in which dangerous substances, preparations or pollutants are stored or used falling within the scope of Directive 2012/18/EU of the European Parliament and of the 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;

penalties, including criminal penalties, into any of the areas referred to in Article 3(1) of that Directive, provided that the ship-source discharges do not satisfy the exceptions set in Article 5 of that Directive; this provision shall not apply to individual cases, where the ship-source discharge does not cause deterioration in the quality of water **or the marine environment**, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water **or the marine environment**;

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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).

#### *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;

<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).

<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).

## **Amendment 58**

### **Proposal for a directive Article 3 – paragraph 1 – point k**

#### *Text proposed by the Commission*

(k) the abstraction of surface water or groundwater which causes or is likely to cause substantial damage to the ecological status or potential of surface water bodies or to the quantitative status of groundwater bodies;

#### *Amendment*

(k) the abstraction of surface water or groundwater which causes or is likely to cause substantial damage to the ecological status or potential of surface water bodies or to the quantitative status of groundwater bodies *or leads to a deterioration of the Status of the Water Bodies as defined in the last River Basin Management Plans, in accordance with the statements of the Annex V of the Directive 2000/60/EC;*

## **Amendment 59**

### **Proposal for a directive Article 3 – paragraph 1 – point k a (new)**

***(k a) committing of a serious infringement within the meaning of article 90 of Regulation (EC) No 1224/2009 of the European Parliament and of the Council;***

## **Amendment 60**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point l**

*Text proposed by the Commission*

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/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;

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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).

*Amendment*

(l) the killing, destruction, taking of, possession, sale or offering for sale, ***including online***, of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 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;

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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).

## **Amendment 61**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point m**



*Text proposed by the Commission*

(m) trading in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A **and B** to Council Regulation (EC) No 338/97<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, **including online**, in specimens of wild fauna or flora species or parts or derivatives thereof listed in Annexes A, **B and C** to Council Regulation (EC) No 338/97<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 62**

**Proposal for a directive**  
**Article 3 – paragraph 1 – point m a (new)**

*Text proposed by the Commission*

*Amendment*

***(m a) the use, for hunting or fishing, of poison, explosive means or other instruments or gear that is similarly destructive or non-selective with regard to wildlife, in coherence with the provisions of Article 15 of and Annex VI to the Habitats Directive;***

**Amendment 63**

**Proposal for a directive**  
**Article 3 – paragraph 1 – point n a (new)**

*Text proposed by the Commission*

*Amendment*

***(n a) unauthorised development, construction or building work on land intended for roads, green areas, public property or sites which are legally or administratively recognised as having landscape, ecological, artistic, historical or cultural value, or which for the same***

*reasons have been designated as specially protected, in particular natural and semi-natural areas included in the Natura 2000 network and protected under EU law;*

#### Amendment 64

##### Proposal for a directive Article 3 – paragraph 1 – point n b (new)

*Text proposed by the Commission*

*Amendment*

*(n b) starting a forest fire;*

#### Amendment 65

##### Proposal for a directive Article 3 – paragraph 1 – point n c (new)

*Text proposed by the Commission*

*Amendment*

*(n c) illegal logging, as defined in Article 2(5a);*

#### Amendment 66

##### Proposal for a directive Article 3 – paragraph 1 – point o

*Text proposed by the Commission*

*Amendment*

(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of Article 6(2) of the Directive 92/43/EEC, *when this deterioration is significant;*

(o) any conduct which causes the deterioration of a habitat within a protected site, *or the significant disturbance of species for which the habitat has been designated* within the meaning of Article 6(2) of the Directive 92/43/EEC:

#### Amendment 67

##### Proposal for a directive Article 3 – paragraph 1 – point p – point ii

*Text proposed by the Commission*

(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;

## **Amendment 68**

### **Proposal for a directive Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1 a. Member States shall ensure that the crime of ecocide is considered a serious criminal offence for the purposes of this Directive, and be defined as unlawful or wanton acts or omission committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused.***

## **Amendment 69**

### **Proposal for a directive Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. Member States shall ensure that the conduct referred to in paragraph 1, points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r) also constitutes a criminal offence, when committed with at least serious negligence.***

***deleted***

## Amendment 70

### Proposal for a directive Article 3 – paragraph 3 – introductory part

*Text proposed by the Commission*

3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):

*Amendment*

3. Member States shall ensure that their national legislation specifies that ***one or more of*** the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):

## Amendment 71

### Proposal for a directive Article 3 – paragraph 3 – point a a (new)

*Text proposed by the Commission*

*Amendment*

***(a a) the estimated cost of reinstatement of the environmental damage;***

## Amendment 72

### Proposal for a directive Article 3 – paragraph 3 – point b

*Text proposed by the Commission*

(b) whether the damage *is* long-lasting, medium term or short term;

*Amendment*

(b) whether the damage ***or its effects are*** long-lasting, medium term or short term;

## Amendment 73

### Proposal for a directive Article 3 – paragraph 3 – point e

*Text proposed by the Commission*

(e) reversibility of the damage.

*Amendment*

(e) ***the extent of*** reversibility of the damage.

#### **Amendment 74**

##### **Proposal for a directive**

##### **Article 3 – paragraph 3 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(e a) the monetary value of the damage to the affected ecosystem evaluated, inter alia, on the basis of its ecological, environmental and social impact;***

#### **Amendment 75**

##### **Proposal for a directive**

##### **Article 3 – paragraph 3 – point e b (new)**

*Text proposed by the Commission*

*Amendment*

***(e b) the amount of financial benefits gained by the offender by committing the offence, including cost of compliance; (AM 55 Rapporteur, AM 281 Renew)***

#### **Amendment 76**

##### **Proposal for a directive**

##### **Article 3 – paragraph 3 – point e c (new)**

*Text proposed by the Commission*

*Amendment*

***(e c) impact on conservation status and trend of the species, population or habitat affected;***

#### **Amendment 77**

**Proposal for a directive**  
**Article 3 – paragraph 4 – introductory part**

*Text proposed by the Commission*

4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality of water, or to animals or plants for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) **and (p)**:

*Amendment*

4. Member States shall ensure that their national legislation specifies that **one or more of** the following elements shall be taken into account, **where relevant**, when assessing whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality of water, or to animals or plants for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k), **(p) and (ra)**:

**Amendment 78**

**Proposal for a directive**  
**Article 3 – paragraph 4 – point a**

*Text proposed by the Commission*

(a) the conduct relates to an activity which is considered as risky or dangerous, requires an authorisation which was not obtained or complied with;

*Amendment*

(a) the conduct relates to an activity which is considered as risky or dangerous, requires an authorisation which was not obtained or complied with, **or is carried out under an authorisation that is illegal, obtained fraudulently or by corruption, extortion or coercion**;

**Amendment 79**

**Proposal for a directive**  
**Article 3 – paragraph 4 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(c a) the impact on human health and other human rights;**

**Amendment 80**

**Proposal for a directive**  
**Article 3 – paragraph 4 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

**(c b) the activity constitutes a violation of due diligence obligations;**

**Amendment 81**

**Proposal for a directive**  
**Article 3 – paragraph 4 – point c c (new)**

*Text proposed by the Commission*

*Amendment*

**(c c) the financial benefits gained by the offender by committing the offence, including cost of compliance.**

**Amendment 82**

**Proposal for a directive**  
**Article 3 – paragraph 5 – introductory part**

*Text proposed by the Commission*

*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 **one or more of** the following elements shall be taken into account, **where relevant**, when assessing whether the **quality and quantity of the impact of the damage** is negligible or non-negligible for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (e), (f), (l), (m), (n):

**Amendment 83**

**Proposal for a directive**  
**Article 3 – paragraph 5 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the number of items subject to the

(a) the **volume or** number of items

offence;

subject to the offence;

#### **Amendment 84**

##### **Proposal for a directive**

##### **Article 3 – paragraph 5 – point c**

*Text proposed by the Commission*

(c) the conservation status of the fauna or flora species concerned;

*Amendment*

(c) the ***protection or*** conservation status of the fauna or flora species concerned, ***including in the habitat concerned by the damage;***

#### **Amendment 85**

##### **Proposal for a directive**

##### **Article 3 – paragraph 5 – point d**

*Text proposed by the Commission*

(d) the cost of ***restoration of*** environmental damage.

*Amendment*

(d) the ***estimated*** cost of ***reinstatement of the*** environmental damage;

#### **Amendment 86**

##### **Proposal for a directive**

##### **Article 3 – paragraph 5 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) the monetary value of the damage to the affected ecosystem evaluated, inter alia, on the basis of its ecological, environmental and social impact;***

#### **Amendment 87**

##### **Proposal for a directive**

##### **Article 3 – paragraph 5 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

***(d b) the financial benefit gained by the***



*offender by committing the offence,  
including cost of compliance.*

## **Amendment 88**

### **Proposal for a directive Article 4 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Article 3(1) are punishable as criminal offences.

*Amendment*

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Article 3(1) **and 3(1a)** are punishable as criminal offences.

## **Amendment 89**

### **Proposal for a directive Article 4 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) **points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r)** when committed intentionally is punishable as a criminal offence.

*Amendment*

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) **and Article 3(1a)**, when committed intentionally is punishable as a criminal offence.

## **Amendment 90**

### **Proposal for a directive Article 5 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

*Amendment*

1. Member States shall take the necessary measures to ensure that the offences referred to in Articles 3, **3(1a)** and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

## Amendment 91

### Proposal for a directive Article 5 – paragraph 2

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person.

*Amendment*

2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person. ***The offence referred to in Article 3(1a) shall also be punishable, in all circumstances, by a maximum term of imprisonment of at least ten years.***

## Amendment 92

### Proposal for a directive Article 5 – paragraph 3

*Text proposed by the Commission*

3. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (a) to **(j)**, (n), (q), (r) are punishable by a maximum term of imprisonment of at least six years.

*Amendment*

3. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (a) to **(k), (ka), (ma)**, (n), **(nb), (nc), (o)**, (q), (r) are punishable by a maximum term of imprisonment of at least six years.

## Amendment 93

### Proposal for a directive Article 5 – paragraph 4

*Text proposed by the Commission*

4. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points **(k)**, (l), (m), **(o)**, (p) are punishable by a maximum term of imprisonment of at least four years.

*Amendment*

4. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points (l), (m), **(na)**, (p) are punishable by a maximum term of imprisonment of at least four years.

## Amendment 94

### Proposal for a directive Article 5 – paragraph 5 – introductory part

*Text proposed by the Commission*

5. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 may be subject to additional sanctions or measures which shall include:

*Amendment*

5. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3, **3(1a)** and 4 may be subject to additional sanctions or measures which shall include:

## Amendment 95

### Proposal for a directive Article 5 – paragraph 5 – point a

*Text proposed by the Commission*

(a) obligation to reinstate the environment within a **given** time period;

*Amendment*

(a) obligation to reinstate the environment within a **reasonable** time period, **covering the cost of reinstatement, where such reinstatement is possible, and to compensate for the damage caused;**

## Amendment 96

### Proposal for a directive Article 5 – paragraph 5 – point b

*Text proposed by the Commission*

(b) fines;

*Amendment*

(b) fines **that are proportionate to the financial benefits accrued by the offender by committing the offence or to the damage caused;**

## Amendment 97

### Proposal for a directive Article 5 – paragraph 5 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(b a) obligation to engage in or finance activities that contribute to the conservation and/or preservation of the environment;**

## **Amendment 98**

### **Proposal for a directive Article 5 – paragraph 5 – point c**

*Text proposed by the Commission*

*Amendment*

(c) temporary or permanent exclusions from access to public funding, including tender procedures, grants **and** concessions;

(c) temporary or permanent exclusions from access to public funding, including tender procedures, grants, concessions **and licences**;

## **Amendment 99**

### **Proposal for a directive Article 5 – paragraph 5 – point d**

*Text proposed by the Commission*

*Amendment*

(d) disqualification from directing establishments of the type used for committing the offence;

(d) disqualification **from functions or** from directing establishments of the type used for committing the offence;

## **Amendment 100**

### **Proposal for a directive Article 5 – paragraph 5 – point f**

*Text proposed by the Commission*

*Amendment*

(f) temporary bans on running for elected or public office;

(f) temporary bans on running for elected or public office;

## **Amendment 101**

**Proposal for a directive**  
**Article 5 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5 a.** *When the conducts referred to under Article 3(1) points (e), (f), (l), (m) and (n), are limited to a negligible quantity, it shall be possible for Member States to apply effective, proportionate and dissuasive administrative sanctions.*

**Amendment 102**

**Proposal for a directive**  
**Article 6 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 where such offences have been committed **for their benefit** by any person **who has a leading position within the legal person**, acting either individually or as part of an organ of the legal person, based on:

1. Member States shall ensure that legal persons can be held liable for offences referred to in Articles 3, **3(1a)** and 4 where such offences have been committed by any person acting either individually or as part of an organ of the legal person, based on:

**Amendment 103**

**Proposal for a directive**  
**Article 6 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of an offence referred to in Articles 3 and 4 **for the benefit of the legal person** by a person under its authority.

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of an offence referred to in Articles 3, **3(1a)** and 4 by a person under its authority.

**Amendment 104**

**Proposal for a directive**  
**Article 6 – paragraph 3**

*Text proposed by the Commission*

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.

*Amendment*

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3, **3(1a)** and 4.

**Amendment 105**

**Proposal for a directive**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) is punishable by effective, proportionate and dissuasive sanctions.

*Amendment*

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) **and Article 6(2)** is punishable by effective, proportionate and dissuasive sanctions. ***The level of sanctions shall reflect the degree of severity and duration of the environmental consequences, and their impact on human health.***

**Amendment 106**

**Proposal for a directive**  
**Article 7 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 6(1) for the offences referred to in Articles 3 and 4 shall include:

*Amendment*

2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 6(1) **and Article 6(2)** for the offences referred to in Articles 3, **3(1a)** and 4 shall include:

**Amendment 107**

**Proposal for a directive**  
**Article 7 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) the obligation to reinstate the environment within a **given** period;

*Amendment*

(b) the obligation to reinstate the environment within a **reasonable** period **covering the cost of reinstatement, where such reinstatement is possible, and to compensate for the damage caused;**

**Amendment 108**

**Proposal for a directive**  
**Article 7 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

**(b a) obligation to finance measures that contribute to the conservation and/or preservation of the environment;**

**Amendment 109**

**Proposal for a directive**  
**Article 7 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) exclusion from entitlement to public benefits or aid;

(c) **temporary or permanent** exclusion from entitlement to public benefits or aid;

**Amendment 110**

**Proposal for a directive**  
**Article 7 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) temporary exclusion from access to public funding, including tender procedures, grants and concessions;

(d) temporary **or permanent** exclusion from access to public funding, including tender procedures, grants and concessions **and licenses;**

## Amendment 111

### Proposal for a directive Article 7 – paragraph 2 – point j

*Text proposed by the Commission*

(j) obligation of companies to install due diligence schemes for enhancing compliance with environmental standards;

*Amendment*

(j) obligation of companies to install ***or to abide by their obligation to have in place*** due diligence schemes for enhancing compliance with environmental standards;

## Amendment 112

### Proposal for a directive Article 7 – paragraph 2 – point k

*Text proposed by the Commission*

(k) publication of the judicial decision relating to the conviction or any sanctions or measures applied.

*Amendment*

(k) publication of the judicial decision relating to the conviction or any sanctions or measures applied ***and EU-wide publication of the judicial decision with cross-border relevance;***

## Amendment 113

### Proposal for a directive Article 7 – paragraph 3

*Text proposed by the Commission*

***3. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(2) is punishable by sanctions or measures, which are effective, proportionate and dissuasive.***

*Amendment*

***deleted***

## Amendment 114

### Proposal for a directive Article 7 – paragraph 4



*Text proposed by the Commission*

*Amendment*

4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) **points (a) to (j), (n), (q), (r)** are punishable by fines, the maximum limit of which shall be not less than **5%** of the total worldwide turnover of the legal person [/undertaking] in the business **year** preceding the **fining decision**.

4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) are punishable by fines, the maximum limit of which shall be not less than **12%** of the total **average** worldwide turnover of the legal person [/undertaking] in the **three business years** preceding the **detection of the offence**.

#### **Amendment 115**

##### **Proposal for a directive Article 7 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4 a. Where the worldwide turnover as referred to in paragraph 4 is negative, equals to zero or is inexplicably low, the maximum limit of the fine shall not be less than an amount corresponding to EUR [100] million.**

#### **Amendment 116**

##### **Proposal for a directive Article 7 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) points (k), (l), (m), (o), (p) are punishable by fines, the maximum limit of which shall be not less than 3% of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.**

**deleted**

#### **Amendment 117**

**Proposal for a directive**  
**Article 7 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**6 a.** *Member States shall take the necessary measures to ensure that the maximum limit of fines paid by the legal person committing the environmental offences referred to in Article 3(1a) shall be between 12 and 25% of the total average worldwide turnover of the legal person in the three business years preceding the detection of the offence.*

**Amendment 118**

**Proposal for a directive**  
**Article 7 – paragraph 6 b (new)**

*Text proposed by the Commission*

*Amendment*

**6 b.** *Member States shall take the necessary measures to make sure that the level of the fines referred to in paragraphs 4 and 6a is gradually increased for repeated infringements.*

**Amendment 119**

**Proposal for a directive**  
**Article 7 – paragraph 6 c (new)**

*Text proposed by the Commission*

*Amendment*

**6 c.** *When the conducts referred to under Article 3(1) points (e), (f), (l), (m) and (n), are limited to a negligible quantity, it shall be possible for Member States to apply effective, proportionate and dissuasive administrative sanctions.*

**Amendment 120**

**Proposal for a directive**  
**Article 8 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) the offence caused the death of, or serious injury to, a person;

*Amendment*

(a) the offence caused the death of, or serious injury to, a person, ***or negatively affected public health. The number of victims shall be taken into account;***

**Amendment 121**

**Proposal for a directive**  
**Article 8 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem;

*Amendment*

(b) the offence caused destruction or irreversible or long-lasting substantial damage to ***a habitat, species of wild fauna or flora covered by Council Regulation (EC) No 338/9751, Council Directive 92/43/EEC and Directive 2009/147/EC of the European Parliament and of the Council or to*** an ecosystem;

**Amendment 122**

**Proposal for a directive**  
**Article 8 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(b a) the offence or the damage have a cross-border dimension;***

**Amendment 123**

**Proposal for a directive**  
**Article 8 – paragraph 1 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

***(b b) the offence caused destruction or damage to a site of critical infrastructure***

*or a site of cultural heritage;*

#### **Amendment 124**

##### **Proposal for a directive**

##### **Article 8 – paragraph 1 – point b c (new)**

*Text proposed by the Commission*

*Amendment*

***(b c) the offence was committed in an area of conservation or protection at national, European or international level, such as Natura 2000 area, or in an area where the offence is likely to have a significant effect in view its conservation objectives;***

#### **Amendment 125**

##### **Proposal for a directive**

##### **Article 8 – paragraph 1 – point c**

*Text proposed by the Commission*

*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> ;

(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.

#### **Amendment 126**

##### **Proposal for a directive**

##### **Article 8 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(c a) the offence was committed together with other criminal offences, or it constituted a predicate offence for other***

*criminal offences;*

#### **Amendment 127**

##### **Proposal for a directive**

##### **Article 8 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) the offence involved the use of false or forged documents;

*Amendment*

(d) the offence involved the use of false or forged documents, ***or was committed under an authorisation that is illegal, obtained fraudulently or by corruption, extortion or coercion;***

#### **Amendment 128**

##### **Proposal for a directive**

##### **Article 8 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) the offence was committed in violation of due diligence obligations or in breach of related decisions made by competent authorities;***

#### **Amendment 129**

##### **Proposal for a directive**

##### **Article 8 – paragraph 1 – point e**

*Text proposed by the Commission*

(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;***

#### **Amendment 130**

##### **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 ***previously*** committed similar previous infringements of environmental law;

### **Amendment 131**

#### **Proposal for a directive**

#### **Article 8 – paragraph 1 – point j a (new)**

*Text proposed by the Commission*

(f) the offender committed similar previous infringements of environmental law;

*Amendment*

***(j a) the offender committed an offence under Article 3 while subject to a derogation under article 15(4) of Directive 2010/75/EU;***

### **Amendment 132**

#### **Proposal for a directive**

#### **Article 8 – paragraph 1 – point j b (new)**

*Text proposed by the Commission*

(f) the offender committed similar previous infringements of environmental law;

*Amendment*

***(j b) the offence caused the unnecessary and avoidable suffering of animals.***

### **Amendment 133**

#### **Proposal for a directive**

#### **Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) the offender ***restores nature*** to its previous condition;

*Amendment*

(a) the offender ***reinstate the environment*** to its previous condition, ***where such reinstatement is possible and it has been carried out voluntarily and before the beginning of the criminal proceeding,***

## Amendment 134

### Proposal for a directive Article 9 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 9 a*

##### *Precautionary measures*

*1. Member States shall take the necessary measures to ensure that, pending the investigation, prosecution or adjudication of environmental offences, their competent authorities may adopt interim measures, including an environmental injunction, for immediate cessation of the unlawful conducts referred to in Articles 3, 3(1a) and 4 of this Directive, if such a conduct is still ongoing, or impose measures to prevent the execution of such conducts, in order to avert a damage to the environment.*

*2. Member States shall ensure that the precautionary measures referred to in paragraph 1 may be adopted upon request of the authorities responsible for the detection, investigation and prosecution of the offences referred to in Articles 3, 3(1a), and 4 of this Directive, and by the public concerned.*

## Amendment 135

### Proposal for a directive Article 10 – title

*Text proposed by the Commission*

*Amendment*

Freezing and confiscation

***Seizure***, freezing and confiscation

## Amendment 136

### Proposal for a directive Article 10 – paragraph 1

*Text proposed by the Commission*

Member States shall take the necessary measures to ensure, **as appropriate**, that their competent authorities may freeze **or** confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the 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.

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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).

**Amendment 137**

**Proposal for a directive  
Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

Member States shall take the necessary measures to ensure that their competent authorities may, **even after final conviction, trace, identify, seize**, freeze **and** confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council<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).

**Amendment 138**

**Proposal for a directive  
Article 10 – paragraph 1 b (new)**

*Amendment*

***1(a) Member States shall ensure that where live animals are subject to seizure pursuant to the commission of offences referred to in Article 3, 3(1a) and 4 of this Directive, the competent authorities can adopt interim measures regarding their placement in order to ensure adequate care, pending investigation, prosecution or adjudication of the offence.***



*Text proposed by the Commission*

*Amendment*

***1(b) Member States shall take the necessary measures to ensure that frozen and confiscated proceeds and instrumentalities from the offences, or where relevant the financial assets obtained from selling material proceeds or instrumentalities from the offences, are appropriately managed, in line with their nature, and used, in connection with the relevant offences and without prejudice to the penalties and sanctions provided for in Articles 5 and 7 of this Directive to:***

***(a) finance the restoration of the environment;***

***(b) repair the damages caused and compensate victims;***

***(c) finance the housing and care of confiscated live animals;***

***(d) ensure that confiscated wildlife products are offered to appropriate public entities for genuine educational, scientific and conservation purposes or cover the costs associated with their destruction, if their use for these purposes is not practicable.***

## **Amendment 139**

### **Proposal for a directive**

#### **Article 10 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***1(c) Member States shall ensure that, wherever possible, confiscated proceeds and instrumentalities from the offences or, where relevant, the financial assets obtained from selling material proceeds or instrumentalities from the offences, are used to finance the National Fund provided for in Article 12a of this Directive.***

## Amendment 140

### Proposal for a directive Article 11 – paragraph 1

*Text proposed by the Commission*

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

*Amendment*

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, ***or after their detection where those offences were concealed or discovered at a later moment than that of their commission***, in order for those criminal offences to be tackled effectively. ***For the investigation, prosecution, trial and adjudication with respect to the criminal offences referred in Article 3(1a) there shall not be limitation period.***

## Amendment 141

### Proposal for a directive Article 11 – paragraph 2 – point a

*Text proposed by the Commission*

(a) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least ten years of imprisonment, ***for a*** period of at least ten years from the time when the offence was committed, when offences are punishable;

*Amendment*

(a) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least ten years of imprisonment, ***within a limitation*** period of at least ten years from the time when the offence was committed, ***or of at least ten years from the day when the offence was detected in case the offence was concealed or discovered at a later moment than that of its commission***, when offences are punishable;

## Amendment 142

**Proposal for a directive**  
**Article 11 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least six years of imprisonment, **for a** period of at least six years from the time when the offence was committed, when offences are punishable;

*Amendment*

(b) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least six years of imprisonment, **within a limitation** period of at least six years from the time when the offence was committed, **or of at least six years from the day when the offence was detected in case the offence was concealed or discovered at a later moment than that of its commission**, when offences are punishable;

**Amendment 143**

**Proposal for a directive**  
**Article 11 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least four years of imprisonment, **for a** period of at least four years from the time when the offence was committed, when offences are punishable.

*Amendment*

(c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least four years of imprisonment, **within a limitation** period of at least four years from the time when the offence was committed, **or of at least four years from the day when the offence was detected in case the offence was concealed or discovered at a later moment than that of its commission**, when offences are punishable.

**Amendment 144**

**Proposal for a directive**  
**Article 12 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Each Member State shall take the necessary measures to establish its

*Amendment*

1. Each Member State shall take the necessary measures to establish its

jurisdiction over the offences referred to in Articles 3 and 4 where:

jurisdiction over the offences referred to in Articles 3, **3(1a)**, and 4 where:

#### Amendment 145

##### Proposal for a directive Article 12 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the offender is one of its nationals or habitual residents.

*Amendment*

(d) the offender, ***or at least one of the victims***, is one of its nationals or habitual residents, ***or a legal person established on its territory or with registered office on its territory***;

#### Amendment 146

##### Proposal for a directive Article 12 – paragraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(d a) the offence is committed for the benefit of a legal person established on its territory***;

#### Amendment 147

##### Proposal for a directive Article 12 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. A Member State shall inform the Commission where it decides to extend its jurisdiction to offences referred to in Articles 3 and 4 which have been committed outside its territory, where:

2. A Member State shall ***take the necessary measures, and*** inform the Commission, where it decides to extend its jurisdiction to offences referred to in Articles 3, **3(1a)**, and 4 which have been committed outside its territory, where:

#### Amendment 148

**Proposal for a directive**  
**Article 12 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

**(a) the offence is committed for the benefit of a legal person established on its territory;**

**deleted**

**Amendment 149**

**Proposal for a directive**  
**Article 12 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) the offence is committed against one of its nationals or its habitual residents;**

**deleted**

**Amendment 150**

**Proposal for a directive**  
**Article 12 – paragraph 2 – point c**  
Article 12

*Text proposed by the Commission*

*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, *the biodiversity or the conservation of native wildlife populations and their habitats* on its territory.**

**Amendment 151**

**Proposal for a directive**  
**Article 12 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*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

Where an offence referred to in Articles 3, **3(1a)**, and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to **swiftly**

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 Eurojust.

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 Eurojust.

*Where an offence referred to in the Articles 3, 3(1a), and 4 was committed in the framework of a criminal organisation, and falls within the jurisdiction of more than one Member State, the determination of which Member State shall conduct criminal proceedings shall be done in accordance with article 7 of Framework Decision 2008/841/JHA.*

*Where a conflict of jurisdiction arises, Member States shall nonetheless be entitled to adopt precautionary measures, as provided for in Article 9a, in order to prevent a damage to the environment or the further deterioration of an existing damage affecting their territory*

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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).

## Amendment 152

### Proposal for a directive Article 12 – paragraph 3

#### *Text proposed by the Commission*

3. In cases referred to in paragraph 1, points (c) **and (d)**, Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.

#### *Amendment*

3. In cases referred to in paragraph 1, points (c), **(d), and (da)** Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.

## Amendment 153

### Proposal for a directive Article 12 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 12 a*

##### *National Fund for preventing and combating environmental crime, victims' compensation and environment's restoration*

*1. Member States shall, within 9 months from the entry into force of this Directive, establish and maintain a national fund, or where relevant adjust such an existing fund, aimed at:*

*a) compensating victims of environmental crimes not covered by already existing national schemes for compensation to victims of crime or by the provisions of Directive 2004/80/EC;*

*b) financing environmental and ecological restoration;*

*c) financing prevention measures, including but not limited to those referred to in Article 9a;*

*d) supporting the measures foreseen in Article 10 of this Directive.*

*Points a) to d) are without prejudice to the application of the relevant penalties and sanctions provided for in Articles 5 and 7 of this Directive.*

*2. The fund shall be financed inter alia through criminal and non-criminal fines and damage compensations foreseen in Articles 5 and 7 of this Directive and, where applicable, through the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offence that have been confiscated in accordance with Article 10 of this Directive.*

## Amendment 154

### Proposal for a directive Article 13 – paragraph 1

*Text proposed by the Commission*

1. Member States shall take the necessary measures to ensure that protection granted under Directive (EU) 2019/1937, **is applicable** to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.

*Amendment*

1. Member States shall take the necessary measures to ensure that **full application of the** protection granted under Directive (EU) 2019/1937 to **any natural** persons reporting criminal offences referred to in Articles 3, **3(1a)** and 4 of this Directive **and to their families, and to take the necessary measures to ensure a similar adequate level of protection for any legal persons reporting these offences.**

## Amendment 155

### Proposal for a directive Article 13 – paragraph 2

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and 4 of this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary support and assistance in the context of criminal proceedings.

*Amendment*

2. Member States shall take the necessary measures to ensure that **any natural and legal** persons reporting offences referred to in Articles 3, **3(1a)** and 4 of this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary support and assistance in the context of criminal proceedings.

## Amendment 156

### Proposal for a directive Article 13 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2 a. The Commission, with the cooperation of Member States shall create**



*an EU-wide platform to enable persons to report environmental offences, as provided by in Article 3, 3(1a) and 4 of this Directive, anonymously in an easy and secure way. This platform will also allow persons to inform about how the concerned Member States have dealt with the environmental offence. The Commission shall actively follow up on serious allegations with the concerned Member States, and shall publish regularly on the received reports.*

## **Amendment 157**

### **Proposal for a directive Article 13 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2 b.** *Member States shall take the necessary measures to ensure natural and legal persons reporting criminal offences referred to in Articles 3, 3(1a) and 4 of this Directive are protected against strategic lawsuits against public participation, in line with the Directive 2022/... [Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings].*

## **Amendment 158**

### **Proposal for a directive Article 13 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

**2 c.** *Member States shall set up reinforced protection measures for persons reporting criminal offences committed in the framework of a criminal organisation or involving such an organisation.*

## Amendment 159

### Proposal for a directive Article 14 – title

*Text proposed by the Commission*

Rights for the public concerned to participate in proceedings

*Amendment*

***Access to justice and*** rights for the public concerned to participate in proceedings

## Amendment 160

### Proposal for a directive Article 14 – paragraph 1

*Text proposed by the Commission*

Member States shall ensure that, in accordance with their national legal system, members of the public concerned have appropriate rights to participate in proceedings concerning offences referred to in Articles 3 and 4, for instance as a civil party.

*Amendment*

Member States shall ensure that, in accordance with their national legal system, members of the public concerned have appropriate rights to participate in proceedings concerning offences referred to in Articles 3, ***3(1a)*** and 4, for instance as a civil party.

## Amendment 161

### Proposal for a directive Article 14 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1(a). Member States shall ensure that, in accordance with their national legal system, members of the public concerned whose rights and interests have been affected or are likely to be affected by the offences referred to in Articles 3, 3(1a) and 4 can be entitled to bring actions before the courts for environmental and ecological restoration.***

## Amendment 162

**Proposal for a directive**  
**Article 14 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1(b). Member States shall take all the appropriate measures to facilitate access to justice and ensure procedural rights to the members of the public concerned, including access to legal aid.***

**Amendment 163**

**Proposal for a directive**  
**Article 15 – paragraph 1**

*Text proposed by the Commission*

*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 ***research and education programmes, including studies on the origin and motivation for committing environmental crimes, as well as*** information and awareness-raising campaigns, ***including on preventive and anti-corruption measures, and targeting the general public, the private sector as well as national authorities with the aim*** to reduce overall ***number of*** environmental criminal offences, raise public awareness and reduce the risk of population of becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders, ***including authorities competent for the investigation, prosecution and adjudication of environmental crime, experts, private sector organisations, and non-governmental organisations promoting the protection of the environment. Member States shall develop and strengthen tools such as risk assessments, anti-corruption strategies and administrative inspections systems to prevent and detect environmental crimes.***

## Amendment 164

### Proposal for a directive Article 16 – paragraph 1

*Text proposed by the Commission*

Member States shall ensure that national authorities which detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of qualified staff **and** sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

*Amendment*

Member States shall ensure that national authorities which **carry out inspections**, detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of qualified **and specialised** staff, **shall provide regular training to this staff, and shall make sure that these national authorities have** sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. **Member States shall establish specialised bodies or confer specialised mandate to existing bodies, such as specialised units within the law enforcement authorities as well as specialised judicial authorities or chambers within the general criminal courts, with primary competence to detect, investigate, prosecute and adjudicate environmental offences, and equip those bodies with the necessary resources to perform their functions.**

## Amendment 165

### Proposal for a directive Article 17 – paragraph 1

*Text proposed by the Commission*

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations to provide at regular

*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.

intervals specialised training *and exchanges of best practices at EU level to ensure the effective achievement of* the objectives of this Directive and appropriate to the functions of the involved staff and authorities. *The specialised training shall also cover the practical use of investigative tools available to fight environmental crime, as referred to in Article 18 of this Directive, as well as effective cooperation between different competent authorities, particularly as regard the investigation and prosecution of transnational environmental crime, and its link with other forms of serious crimes.*

*Member States shall ensure that those responsible for these trainings have sufficient, stable and predictable financing available for the regular organisation of the trainings.*

*The Commission shall, within a reasonable timeframe, take the necessary measures to ensure that the online training for law enforcement authorities provided by the European Union Agency for Law Enforcement Training (CEPOL) is available in all official EU languages in order to allow for the maximisation of the number of recipients of the training.*

## Amendment 166

### Proposal for a directive Article 18 – paragraph 1

#### *Text proposed by the Commission*

Member States shall take the necessary measures to ensure that effective investigative tools, *such as* those which are used in organised crime or other serious *crime cases*, are also available for investigating or prosecuting offences referred to in Articles 3 and 4.

#### *Amendment*

Member States shall take the necessary measures to ensure that effective investigative tools, *including* those which are used in organised crime or other serious *crimes with cross-border dimension*, are also available for investigating or prosecuting offences referred to in Articles 3, *3(1a)* and 4.

## Amendment 167

### Proposal for a directive Article 19 – title

*Text proposed by the Commission*

Coordination and cooperation between competent authorities within *a* Member *State*

*Amendment*

Coordination and cooperation between competent authorities within *and between* Member *States and with relevant bodies at EU level*

## Amendment 168

### Proposal for a directive Article 19 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the exchange of best practices;

*Amendment*

(d) the exchange of best practices, *including on the setting-up of specialised law enforcement and judicial authorities competent for environmental offences, as foreseen in Article 16;*

## Amendment 169

### Proposal for a directive Article 19 – paragraph 1 – point e

*Text proposed by the Commission*

(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related infringements,

*Amendment*

(e) assistance to *European agencies and bodies, and* European networks of practitioners working on matters relevant to combating environmental offences and related infringements,

## Amendment 170

### Proposal for a directive Article 19 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.

*Amendment*

and may take the form of specialised coordination bodies ***with a designated contact point***, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.

***The European Commission shall facilitate such coordination by providing support and promote a more institutionalised structure for existing networks of practitioners.***

***Member states shall ensure that, where relevant, when investigating or prosecuting the offences referred to in Articles 3, 3(1a), and 4, their authorities establish contacts and consultations and maintain close cooperation with the competent authorities of other Member States affected and with the relevant EU institutions, agencies, bodies and offices within their respective mandates and competences.***

**Amendment 171**

**Proposal for a directive  
Article 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 19 a***

***Investigation of environmental crime at EU level***

***The Commission shall, within 12 months from the entry into force of this Directive, draw up a report on the possibility and modalities of the extension of competences of the European Public Prosecutor's Office as provided for in Article 86 of the Treaty on the Functioning of the European Union to include serious environmental crime that are detrimental to the interests of the***

***Union or affect the consistent application of EU policies related to the protection of the environment, and present it to the Council and the European Parliament.***

## Amendment 172

### Proposal for a directive

#### Article 20 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. ***By [OP – please insert the date –*** within one year after the entry into force of this Directive***],*** Member States shall establish, publish and implement a national strategy on combating environmental criminal offences which as a minimum shall address the following:

*Amendment*

1. Within one year after the entry into force of this Directive, Member States shall establish, publish and implement a national strategy on combating environmental criminal offences which as a minimum shall address the following:

## Amendment 173

### Proposal for a directive

#### Article 20 – paragraph 1 – point c

*Text proposed by the Commission*

(c) the modes of coordination and cooperation between the competent authorities;

*Amendment*

(c) the modes of coordination and cooperation between the competent ***national*** authorities, ***and between competent national authorities and the competent national authorities of other Member States;***

## Amendment 174

### Proposal for a directive

#### Article 20 – paragraph 1 – point f

*Text proposed by the Commission*

(f) the procedures and mechanisms for regular monitoring ***and*** evaluation of the results achieved;

*Amendment*

(f) the procedures and mechanisms for regular monitoring, evaluation ***and reporting*** of the results achieved ***and of the degree of implementation and***



*enforcement of the provision of this Directive;*

#### **Amendment 175**

##### **Proposal for a directive Article 21 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) the number of environmental crime cases investigated;

*Amendment*

(b) the number of environmental crime cases investigated, ***prosecuted and adjudicated***;

#### **Amendment 176**

##### **Proposal for a directive Article 21 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) the average length of the criminal investigations of environmental crimes;

*Amendment*

(c) the average length of the criminal investigations of environmental crimes ***as well as of criminal proceedings***;

#### **Amendment 177**

##### **Proposal for a directive Article 21 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) the number of convictions for environmental crime;

*Amendment*

(d) the ***total*** number of convictions for environmental crime;

#### **Amendment 178**

##### **Proposal for a directive Article 21 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) the number of convictions for environmental crimes related to offences***

*committed in the framework of a criminal organisation;*

#### **Amendment 179**

##### **Proposal for a directive Article 21 – paragraph 2 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

*(d b) the number of convictions for environmental crimes related to offences committed by a public official or involving a public authority;*

#### **Amendment 180**

##### **Proposal for a directive Article 21 – paragraph 2 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

*(g a) the number of court cases ended due to the expiration of the limitation period;*

#### **Amendment 181**

##### **Proposal for a directive Article 21 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Member States shall ensure that a consolidated review of their statistics *is regularly* published.

3. Member States shall ensure that *the statistical data referred to in paragraph 2 and* a consolidated review of their statistics *are* published *annually. The following year after the standard format referred to in Article 22 is established, Member States shall start using it for their annual publications of statistics.*

#### **Amendment 182**

**Proposal for a directive**  
**Article 21 – paragraph 5**

*Text proposed by the Commission*

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 regularly publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time **two** years after the standard format referred to in Article 22 has been determined. ***The Commission shall establish the standard form within 18 months after the entry into force of this Directive.***

**Amendment 183**

**Proposal for a directive**  
**Article 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 24 a***

***Guidelines***

***1. The European Commission, in cooperation with the European networks of practitioners and with relevant experts and stakeholders, shall regularly provide Member States and their authorities with individual guidance as well as with collective guidelines and recommendations on the aspects of the Directive where it deems necessary to ensure correct, consistent and coherent transposition and implementation at Member State level.***

***This guidance should include the identification of high risk situations and potential threats concerning persons reporting environmental offences, and recommendations for follow-up actions and protection measures in line with Article 13 of this Directive.***

***2. In line with paragraph 1 and in order to ensure consistency and coherence across Member States for the purpose of***

*law enforcement and to prevent forum shopping by offenders, the Commission shall, within 18 months after the entry into force of this Directive, issue guidelines to facilitate common understanding among Member States of the elements provided for in paragraphs 3 to 5 of Article 3 in accordance with national and European environmental law.*

## Amendment 184

### Proposal for a directive Article 25 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall by [OP – please insert the date - **two years** after the transposition period is over], submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.

*Amendment*

1. The Commission shall by [OP – please insert the date - **one year** after the transposition period is over], **and every three years thereafter**, submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report. **The Commission shall prepare the report based not only on the information provided by the Member States, but also based on its own scrutiny as well as based on public consultations involving relevant stakeholders, including civil society organisations, environmental protection agencies and competent authorities.**

## Amendment 185

### Proposal for a directive Article 25 – paragraph 2

*Text proposed by the Commission*

2. Every two years as **of [OP – please**

*Amendment*

2. Every two years as the transposition

*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**.

period is over, Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with Articles **3 to 21**.

## Amendment 186

### Proposal for a directive Article 25 – paragraph 3

#### *Text proposed by the Commission*

3. By [OP – please insert the date - **five** years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.

#### *Amendment*

3. By [OP – please insert the date - **four** years after the transposition period is over], the Commission shall carry out an evaluation of the impact of this Directive **as well as the need to update the list of offences in Article 3** and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Protection of the environment through criminal law and replacing Directive 2008/99/EC
<b>References</b>	COM(2021)0851 – C9-0466/2021 – 2021/0422(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 27.1.2022
<b>Opinion by</b> Date announced in plenary	LIBE 27.1.2022
<b>Rapporteur for the opinion</b> Date appointed	Saskia Bricmont 5.9.2022
<b>Discussed in committee</b>	25.10.2022
<b>Date adopted</b>	6.2.2023
<b>Result of final vote</b>	+: 35 -: 16 0: 0

<b>Members present for the final vote</b>	Konstantinos Arvanitis, Katarina Barley, Theresa Bielowski, Karolin Braunsberger-Reinhold, Patrick Breyer, Lena Düpont, Lucia Āuriš Nicholsonová, Cornelia Ernst, Maria Grapini, Evin Incir, Sophia in ‘t Veld, Patryk Jaki, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Erik Marquardt, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Diana Riba i Giner, Isabel Santos, Tineke Strik, Ramona Strugariu, Tom Vandendriessche, Elena Yoncheva, Javier Zarzalejos
<b>Substitutes present for the final vote</b>	Susanna Ceccardi, Gwendoline Delbos-Corfield, Dietmar Köster, Alessandra Mussolini, Matjaž Nemeč, Janina Ochojska, Anne-Sophie Pelletier, Thijs Reuten, Miguel Urbán Crespo, Axel Voss
<b>Substitutes under Rule 209(7) present for the final vote</b>	Aurélia Beigneux, Milan Brglez, Katalin Cseh, Marie Dauchy, Paolo De Castro, José Manuel Fernandes, Tomasz Frankowski, Vlad Gheorghe, Martin Hojsík, Max Orville, Mounir Satouri

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

35	+
Renew	Katalin Cseh, Lucia Ďuriš Nicholsonová, Vlad Gheorghe, Martin Hojsik, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Max Orville, Maite Pagazaurtundúa, Ramona Strugariu
S&D	Katarina Barley, Theresa Bielowski, Milan Brglez, Paolo De Castro, Maria Grapini, Evin Incir, Łukasz Kohut, Dietmar Köster, Juan Fernando López Aguilar, Javier Moreno Sánchez, Matjaž Nemeč, Thijs Reuten, Isabel Santos, Elena Yoncheva
The Left	Konstantinos Arvanitis, Cornelia Ernst, Anne-Sophie Pelletier, Miguel Urbán Crespo
Verts/ALE	Patrick Breyer, Gwendoline Delbos-Corfield, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Mounir Satouri, Tineke Strik

16	-
ECR	Patryk Jaki
ID	Aurélia Beigneux, Susanna Ceccardi, Marie Dauchy, Tom Vandendriessche
PPE	Karolin Braunsberger-Reinhold, Lena Düpont, José Manuel Fernandes, Tomasz Frankowski, Jeroen Lenaers, Lukas Mandl, Alessandra Mussolini, Janina Ochojska, Paulo Rangel, Axel Voss, Javier Zarzalejos

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

8.12.2022

## **OPINION OF THE COMMITTEE ON PETITIONS**

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC (COM(2021)0851 – C9-0466/2021 – 2021/0422(COD))

Rapporteur for opinion: Vlad Gheorghe

### **SHORT JUSTIFICATION**

Directive 2008/99/EC on the protection of the environment through criminal law, together with Directive 2004/35 on environmental liability and Regulation (EU) 2019/1010 on the transposition of information obligations in the field of environmental law, constitute the current threefold EU legislative reference on environmental crime. Their purpose is to make environmental offenders criminally liable and to leave to the Member States the type of penalty applicable, provided that they are effective, proportionate and dissuasive penalties for this type of crime, when committed intentionally or as a result of serious negligence.

However, as evidenced by the impact assessment carried out by the European Commission in 2020, the number of cases successfully prosecuted has been low, sanctions have been insufficient to be dissuasive and cross-border cooperation has been low. Moreover, given the differences between the legal systems of the various States, it has proved difficult to define indeterminate legal concepts. Shortcomings were also identified in the Member States in terms of resources, expertise, awareness raising, prioritisation, cooperation and information exchange, and it was found that there were no comprehensive national strategies to fight environmental crime at all levels of the implementation chain and a multidisciplinary approach. Moreover, the lack of coordination between the application of administrative and criminal laws and sanctions often leads to a lack of effectiveness. The lack of reliable, accurate and complete statistical data on environmental crime proceedings in the Member States prevented national policy-makers and practitioners from monitoring the effectiveness of their measures. Based on the results of the evaluation, the Commission decided to revise the Directive so that the legislative proposal to fight environmental crime meets one of the key commitments of the European Green Deal.

For its part, the Committee on Petitions has noted, through the petitions received, that environmental crimes jeopardise the objectives of the Green Deal both in terms of negative and often irreversible environmental effects and economic losses as it is often connected to money laundering, corruption, counterfeiting, trafficking, physical violence and murder, extending the effects beyond damage to the habitat. In addition, highly lucrative and low risk character of the environmental crime creates unfair competition for legal business activities. Indeed, the numerous petitions on environmental damage caused by human action often



highlight the lack of efficiency and capacity of national authorities to detect, investigate and prosecute environmental crimes. In addition, criminal organisations and mafias threaten the conservation of biodiversity and environmental heritage.

Their devastating effects affect the health, safety and well-being of EU citizens, victims in various ways, who call for better cross-border cooperation, which is crucial for the effective implementation of the Directive. It should also be stressed that environmental crime can affect entire ecosystems and that these can include cross-border areas and that it is therefore of utmost importance to have a definition of the cross-border dimension of crime that serves to establish the tools for investigating and prosecuting it.

However, the ongoing amendment should not be limited to definitions, but should give us the opportunity to fight crime and to provide us with a stronger tool than the current Directive 2008/99/EC. The Rapporteur firmly believes that environmental crimes, especially in large scale, are often linked to other serious criminal offences, which jeopardises the EU security objectives, EU financial interest and the EU Green Deal commitments. This link needs to be identified and addressed in light of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime. The central axes of the PETI Committee's contribution in the form of a legislative opinion are:

to achieve the effectiveness and agility of the regulatory regime through the establishment of a system based on equal penalties for the same crime, so that potential perpetrators do not perceive that some EU States offer a lighter and less effective regulatory regime. The Rapporteur stresses that persistent difference in the penalty levels place to the hand of criminals as they can profit from judicial asymmetries and chose the less restrictive jurisdictions, which de facto constitutes an incentive for the perpetrators to commit crimes;

to consider as an aggravating fact that environmental damage affects EU protected areas or areas of cultural importance. The Rapporteur is of the view that consistent penalties across EU Member States will dissuade the criminals who still consider such activities as low-risk and high-gain;

to take into account the financial cost of crime as an important indicator of its scale and the systematic application of high sanctions as a preventive measure, as well as the use of the proceeds of sanctions to finance nature conservation measures, measures to combat environmental crimes and compensation to victims. The Rapporteur considers more appropriate to use terms such as “finance and complete restoration”, rather than “reinstate”, as crime perpetrators might lack the competence and knowledge to restore the destroyed area and that such financing will give more resources for achieving the objectives of the Directive;

to establish an EU Green Prosecutor by extending the competence of the European Public Prosecutor's Office (in accordance with Article 86(4) TFEU) to include environmental crimes with known links to organised crime, as also requested by the European Parliament and suggested by the EESC. The Rapporteur believes that the example of the successful EPPO work on cross-border financial crime underlines the need of this body to deal with environmental crime. Thanks to its structure, competences, tools and working methods, it is the institution best placed to coordinate and support the efforts of the Member States, which in turn will be able to rely on the support of the Green Prosecutor for the investigation and coordination of cross-border operations, the exchange of information and the promotion of

best practices;

to highlight that cross-border cooperation between EU Member States and coordination across the EU are key to achieve the objectives as the wide and complex scope of environmental crime requires specialised police units with mutual assistance in criminal matters, joint investigation teams, exchange of criminal records and mutual recognition instruments (arrest warrant, fines, confiscation orders). These units must be well trained and equipped with the financial and technical resources necessary for the performance of their duties;

to promote the exchange of available data between the Member States and cooperation with European networks such as Europol and Eurojust to ensure that their national strategies take into account the latest available data and trends in the field of environmental crime. The Rapporteur argues that Europol plays an important role in addressing the European angle of environmental crime but a stronger call on Member States to share information with Europol is necessary;

to support and to protect citizens, NGOs and associations that report environmental crime and can therefore become victims of retaliation. The Rapporteur says that by speaking of "citizens and NGOs" we underline the agency they have in reporting the crime.

## AMENDMENTS

The Committee on Petitions calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a directive

#### Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) The Union recognises the fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union, including a high level of environmental protection and the improvement of the quality of the environment (Article 37), the right to life (Article 2) and the right to personal integrity (Article 3). The Union must ensure full enjoyment of these rights by all persons, entailing responsibilities and duties with regard to the human community and to future generations. Considering that the impact of***

*environmental crime not only affects biodiversity, climate and planetary boundaries, but also human rights and human and environmental health, the fight against environmental crime should be a priority at Union level in order to ensure full protection of these rights and prevent environmental damage.*

## Amendment 2

### Proposal for a directive Recital 1 b (new)

*Text proposed by the Commission*

*Amendment*

*(1b) The ECHR's case law only provides for indirect protection of the right to a healthy environment by sanctioning only environmental violations that simultaneously result in an infringement of other human rights already recognized in the European Convention on Human Rights.*

## 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. Such offences pose a threat to the environment and therefore call for an appropriate and effective response. *The improvement of cross-border cooperation that works in a more systematic manner between competent authorities at national and Union level would help to better*

*implement Union environmental criminal law.*

#### **Amendment 4**

##### **Proposal for a directive Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) Citizens of the Union expressed concerns in a number of petitions delivered to the European Parliament and transmitted to the Commission on the disruptions and deterioration of the environment demanding the right to live in a healthy environment and access to justice in environmental matters.***

#### **Amendment 5**

##### **Proposal for a directive Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) The establishment of sanctions regarding illegal dumping of inert materials and its consequences on soil, ecosystem and environment is essential in the fight against pollution and polluters. These sanctions should be the ones provided for offences under Article 3(1), point (e)(ii) of this Directive.***

#### **Amendment 6**

##### **Proposal for a directive Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union

(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union

law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally ***and, in certain cases, also when committed*** with serious negligence. ***Illegal conduct that causes death or serious injury of persons, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly harmful to the environment constitutes a criminal offence when committed with serious negligence.*** Member States remain free to adopt or maintain more stringent criminal law rules in that area.

#### Amendment 7

##### Proposal for a directive Recital 8 a (new)

*Text proposed by the Commission*

law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally ***or*** with serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.

*Amendment*

***(8a) In order to cover all forms of environmental crimes, and in line with existing legislation in different national criminal law systems, Member States should criminalise autonomous categories of environmental offences by creating an offence of endangering the environment when a conduct directly or indirectly exposes the environment to an immediate risk of substantial damage or when, knowingly, a conduct causes a substantial damage to the environment. Criminal law has its own characteristics, which make it more dissuasive than administrative law, especially in terms of applicable sanctions.***

## Amendment 8

### Proposal for a directive Recital 8 b (new)

*Text proposed by the Commission*

*Amendment*

***(8b) Public authorities or undertakings should not be prevented from being prosecuted where they have knowingly used their powers to incite, participate in or be complicit in an action in breach of environmental law, which may constitute a criminal offence. Officials of national governments and public bodies can commit environmental crimes either ‘directly’, by breaching environmental duties or omitting to act in conformity with them, or by facilitating offences committed by entities, such as multinational corporations.***

## Amendment 9

### Proposal for a directive Recital 9

*Text proposed by the Commission*

*Amendment*

(9) The environment should be protected in a wide sense, as set out under Article 3 (3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, wild fauna and flora including habitats - as well as services provided by natural resources.

(9) The environment should be protected in a wide sense, as set out under Article 3 (3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, wild fauna and flora including habitats, ***ecosystems and species population*** - as well as ***functions and*** services provided by natural resources.

## Amendment 10

### Proposal for a directive Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9a) While the recognition of the crime***

*of ecocide is currently being discussed in several national parliaments around the world and in the Union, the Union should seize this issue to remain a world leader in environmental protection legislation and to ensure harmonised definition and sanctions ex ante, and not ex post. Member States shall therefore adopt a crime of ecocide, which shall 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 identify the most serious damage to the environment and thus to provide for a graduation of sanctions according to the gravity of the harm to the environment.*

#### **Amendment 11**

##### **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, corrupt government individuals, organised criminal networks, and often 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.*

#### **Amendment 12**

##### **Proposal for a directive Recital 11 b (new)**

**(11b) The "One Health" approach recognizes the interconnection between people, animals, plants, and their shared environment and is an integrated, unifying approach that aims to sustainably balance and optimize the health of people, animals and ecosystems. It recognizes that the health of humans, domestic and wild animals, plants and the wider environment (including ecosystems) are closely interlinked and inter-dependent.**

### **Amendment 13**

#### **Proposal for a directive**

##### **Recital 13**

*Text proposed by the Commission*

*Amendment*

(13) Inciting, and aiding and abetting the criminal offences ***committed intentionally*** should also be punishable. An attempt to commit a criminal offence ***that causes death or serious injury of a person, substantial damage to the environment or is likely to cause substantial damage to the environment or is otherwise considered particularly harmful*** should also constitute a criminal offence when committed intentionally.

(13) Inciting, and aiding and abetting the criminal offences ***referred to in this Directive*** should also be punishable. An attempt to commit a criminal offence ***referred to in this Directive*** should also constitute a criminal offence when committed intentionally ***or with serious negligence***.

### **Amendment 14**

#### **Proposal for a directive**

##### **Recital 14**

*Text proposed by the Commission*

*Amendment*

(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions are often seen as being more effective than financial sanctions especially

(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.

for legal persons. Additional sanctions or measures should be therefore available in criminal proceedings. These should include the obligation to *fully cover the cost of restoration of* the environment, exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations. *The Commission should present, within one year of the date of entry into force of this Directive, guidance classifying sanctions for national competent authorities, prosecutors and judges.* This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.

## Amendment 15

### Proposal for a directive Recital 15

#### *Text proposed by the Commission*

(15) Where national law provides for it, legal persons should also be held criminally liable for environmental criminal offences according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanctions types and levels as laid down in this Directive in order to achieve its objectives. Financial situation of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed.

#### *Amendment*

(15) Where national law provides for it, legal persons should also be held criminally liable for environmental criminal offences according to this Directive. *Like natural persons, legal persons who are perpetrators, instigators or accomplices in offences should be held responsible and subject to criminal proceedings.* Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate *and, where possible, identical* sanctions types and levels as laid down in this Directive in order to achieve its objectives. Financial situation of legal persons, *the direct and indirect environmental consequences in the short, medium and long term as well as, if applicable, the irreversible nature of the environmental damage,* should be taken into account to ensure the dissuasiveness of the sanction imposed. *Finally, the level of*

*criminal sanctions applicable to legal persons for other categories of offences should be taken into account.*

## Amendment 16

### Proposal for a directive

#### Recital 16

*Text proposed by the Commission*

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case.

*Amendment*

(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem ***or to the conservation of populations of wild animal or plant species***, 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 17

### Proposal for a directive

#### Recital 17

*Text proposed by the Commission*

(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have made financial gains, such gains should be confiscated.

*Amendment*

(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have made financial gains, such gains should be confiscated ***and used for example to repair damages caused to the***

*environment, to compensate victims of those crimes and to finance measures aimed at combating similar crimes.*

## Amendment 18

### Proposal for a directive Recital 17 a (new)

*Text proposed by the Commission*

*Amendment*

***(17a) Lack of national rescue and sanctuary capacity may contribute to the lack of enforcement of relevant provisions related to wildlife trade by a Member State and result in measures inadequate to deter wildlife crime, such as administrative sanctions, without seizure. Dissuasive sanctions, collaboration and exchange between governmental and non-governmental sanctuaries and rescue centres to secure long term and species-appropriate solutions for seized wildlife is needed.***

## Amendment 19

### Proposal for a directive Recital 19

*Text proposed by the Commission*

*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.

(19) Member States should lay down rules concerning limitation periods necessary ***and adapted to the specificities of environmental damage, the occurrence of which is often spread over time,*** in order to enable them to counter environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement. ***Member States should ensure that special measures of limitation may be applied in the case of concealment of an offence, in particular where the offender has prevented its discovery. In this case, the time limit shall run only from the day when the offence could be***

*established under conditions that allow prosecution.*

## Amendment 20

### Proposal for a directive Recital 22 a (new)

*Text proposed by the Commission*

*Amendment*

*(22a) As intended in the Environmental Liability Directive (2004/35/CE) and in order to comply with the "polluter pays" principle established in Article 191(2) TFEU, Member States should provide for the creation of a fund dedicated to the financing of environmental remediation or repair, which should be financed by administrative and criminal fines paid by the perpetrator of environmental offences. Confiscated criminal assets should also be used as a source of funding. This fund could be mobilised in the event of an environmental emergency, making it possible to respond in particular to the problems of so called 'orphan' pollution, pollution that took place in the past and where the polluter pays principle cannot be applied because the polluter is either unknown, no longer exists, or cannot be made liable.*

## Amendment 21

### Proposal for a directive Recital 24

*Text proposed by the Commission*

*Amendment*

(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

(24) Environmental criminal offences harm nature and society. By reporting breaches of Union environmental law, **natural and legal persons, such as individuals, associations, or NGOs** perform a service of public interest and play a key role in **identifying**, exposing and preventing such breaches, and thus safeguarding the **environment and the** welfare of society. Individuals in contact

threats or harm to the public interest and the environment. Persons who report irregularities are known as whistleblowers. Potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the Council<sup>25</sup>.

with an organisation in the context of their work-related activities are often the first to know about threats or harm to the public interest and the environment. Persons who report irregularities are known as whistleblowers. Potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the 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).

## **Amendment 22**

### **Proposal for a directive Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***(24a) By monitoring, raising awareness and educating on the issues and consequences of environmental crime, non-governmental organisations play a key role in effectively combating environmental crime and better preventing criminal behaviour.***

## **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

(25) Other ***natural or legal*** persons may also possess valuable information concerning potential environmental criminal offences. They may be members of the community affected or members of

taking an active part in protecting the environment. Such persons who report environmental crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings.

society at large taking an active part in protecting the environment. Such persons who report environmental crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. ***Reporting of potential environmental criminal offences with cross-border effect should be facilitated with the use of digital tools.*** These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings.

#### **Amendment 24**

##### **Proposal for a directive Recital 25 a (new)**

*Text proposed by the Commission*

*Amendment*

***(25a) Environmental defenders who directly protect ecosystems are also often on the front line of the consequences of environmental crime worldwide, including in the Union. They may be directly threatened, intimidated, persecuted, harassed or even murdered by perpetrators, and as such should also benefit from balanced and effective protection. Environmental defenders may also be subject to abusive lawsuits and should be protected from such practices, also known as "strategic lawsuits against public participation".***

## Amendment 25

### Proposal for a directive Recital 25 b (new)

*Text proposed by the Commission*

*Amendment*

***(25b) The European Ombudsman is a key pillar to strengthen the role of civil society in environmental matters with its very important inquiries related to access for the public to environmental documents and transparency of decision-making related to environmental issues. It is of paramount important that Union institutions, agencies and bodies fully cooperate with the Ombudsman and consistently and timely comply with all Ombudsman's solutions, recommendations and suggestions to ensure the highest levels of good administration, with a view to also enhancing the fight against any possible environmental offence.***

## Amendment 26

### 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 procedural rules.

(26) ***Considering the intrinsic value of nature and*** since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus Convention<sup>26</sup>, ***and therefore including environmental non-governmental organisations, whose role is important notably in the absence of identifiable victims,*** should have the possibility to act on behalf of the environment as a **natural common goods**, within the scope of the Member States' legal framework and subject to the relevant procedural rules. ***In order to ensure***

*respect for the right to an effective remedy enshrined in Article 47 of the Charter of Fundamental Rights and Article 9(3) of the Aarhus Convention, obstacles to access to justice should be limited.*

## Amendment 27

### Proposal for a directive Recital 26 a (new)

*Text proposed by the Commission*

*Amendment*

***(26a) The Commission should commit to developing guidelines under this Directive to specify the procedural framework for the participation of members of the public in the criminal prosecution of environmental offences, including the definition of easily accessible admissibility criteria.***

## Amendment 28

### Proposal for a directive Recital 28

*Text proposed by the Commission*

*Amendment*

(28) The effective functioning of the enforcement chain depends on a range of specialist skills. As the complexity of the challenges posed by environmental offences and the technical nature of such crime require a multidisciplinary approach, a high level of legal knowledge, technical expertise as well as a high level of training and specialisation within all relevant competent authorities are necessary. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate 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***

(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 ***establish, if they have not yet been created, specialised environmental courts or environmental units within existing courts.*** Technical expertise should be made



*criminal courts could provide for specialised chambers of judges.* Technical expertise should be made available to all relevant enforcement authorities.

available to all relevant enforcement authorities.

## Amendment 29

### Proposal for a directive Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

***(30a) Europol and Eurojust should be recognised as focal points to support Member States in their efforts to draft national strategies.***

#### *Justification*

*Member States should apply to the assistance of European networks to make sure their national strategies take into account the latest available data and tendencies in the area of environmental crime.*

## Amendment 30

### Proposal for a directive Recital 30 b (new)

*Text proposed by the Commission*

*Amendment*

***(30b) With a view to ensure closer cooperation between Member States on environmental crime, the Union should consider establishing an EU Green Prosecutor by extending the mandate of the European Public Prosecutor's Office (EPPO) to the criminal offences defined in this Directive. The EPPO, which has its own powers and authority to coordinate investigations and prosecutions in cross-border cases, is currently the body of the Union that is best placed to deal with the most serious environmental crimes with a cross-border dimension. An extension of the mandate of the EPPO to cover serious environmental crime with a cross-border dimension, via the European Council in accordance with Article 86(4) TFEU,***

*would therefore be necessary. The EPPO would thus be able to deal with crimes with a cross-border dimension for which the strengthening of the criminal response is unlikely to be achieved through the traditional channels of judicial cooperation. In order to fulfil this new and broader task, Council Regulation (EU) 2017/1939<sup>1a</sup> would need to be amended and complemented accordingly to reflect the extension of the EPPO's mandate to cover serious environmental crimes. In light of this, the Commission should produce a report on establishing an EU Green Prosecutor by extending the mandate of the EPPO, to cover environmental offences.*

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*<sup>1a</sup>Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 83, 31.10.2017, p. 1).*

## **Amendment 31**

### **Proposal for a directive Recital 30 c (new)**

*Text proposed by the Commission*

*Amendment*

*(30c) The Commission, Europol and Eurojust should support and develop a more institutionalised structure for existing networks of practitioners such as the European Environmental Prosecutors' Network (EEPN) and the European Union Forum of Judges for the Environment (EUFJE) with the participation of all stakeholders and work to strengthen the work of the informal environmental crime network ("EnviCrimeNet").*

## Amendment 32

### Proposal for a directive Recital 31

*Text proposed by the Commission*

(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish and periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed.

*Amendment*

(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish and periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed. ***Such national strategy should be based on the needs, specificities and challenges of the Member States.***

## Amendment 33

### Proposal for a directive Recital 31 a (new)

*Text proposed by the Commission*

*Amendment*

***(31a) Due to its global impact and cross-border nature, the Union and its Member States should make the fight against environmental crime a strategic political priority in international judicial cooperation and within the institutions and the Conference of the Parties to the United Nations Framework Convention on Climate Change, in particular by promoting compliance with multilateral environmental agreements through the adoption of criminal sanctions and the exchange of best practices and data on environmental crime. This international approach to environmental crime should also include extending the scope of the International Criminal Court to the crime of ecocide, and the Union and its Member States have a key role and responsibility in this regard.***

## Amendment 34

### Proposal for a directive Recital 32

#### *Text proposed by the Commission*

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission relevant statistical data on environmental offences. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

#### *Amendment*

(32) To effectively tackle the criminal offences referred to in this Directive, it is necessary that competent authorities in the Member States collect ***and keep up-to-date*** accurate, consistent and comparable data on the scale of and trends in environmental offences and the efforts to combat them and their results. These data should be used for preparing statistics to serve the operational and strategic planning of enforcement activities as well as for providing information to citizens. Member States should collect and report to the Commission ***and make available online to the public*** relevant statistical data on environmental offences. ***The Commission should develop a series of tools and processes to facilitate reporting by Member States, including standard formats for the different types of reported data to ensure their relevance, objectivity, and allow comparative analysis between Member States and work together with the Member States to identify any deficiencies in data collection and offer support in order to address them.*** The Commission should regularly assess and publish the results based on the data transmitted by the Member States.

## Amendment 35

### Proposal for a directive Article 1 – paragraph 1

#### *Text proposed by the Commission*

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in order to protect

#### *Amendment*

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in order to ***combat environmental crime and*** protect the

the environment more effectively.

environment more effectively.

### Amendment 36

#### Proposal for a directive

#### Article 2 – paragraph 1 – point 1 – subparagraph 2

##### *Text proposed by the Commission*

The conduct shall be deemed unlawful even if carried out under an authorisation by a competent authority in a Member State when the authorisation was obtained fraudulently or by corruption, extortion or coercion;

##### *Amendment*

The conduct shall be deemed unlawful even if carried out under an authorisation ***or an approved planning instrument*** by a competent authority in a Member State when the authorisation ***or the approved planning instrument*** was obtained fraudulently or by corruption, extortion or coercion;

### Amendment 37

#### Proposal for a directive

#### Article 2 – paragraph 1 – point 1 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***(1a) ‘ecocide’ means 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 by these acts;***

### Amendment 38

#### Proposal for a directive

#### Article 2 – paragraph 1 – point 2 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***(2a) ‘illegal logging’ means any logging which infringes rules and legislation in force and is not limited to cases which involve products or commodities within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council or Regulation (EU) 202x/xxxx of the European parliament and of the Council on the making available on the Union***

*market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010<sup>+</sup>, including conduct of a local, regional or national forest authority infringing Union law in the sphere of nature protection or a law implementing Union strategic initiatives in the sphere of nature protection;*

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*<sup>+</sup> OJ please insert the number and publication reference of the act in procedure 2021/0366(COD).*

#### **Amendment 39**

##### **Proposal for a directive Article 2 – paragraph 1 – point 3**

*Text proposed by the Commission*

(3) ‘legal person’ means any legal entity having such status under the applicable national law, *except for States or public bodies exercising State authority and for public international organisations;*

*Amendment*

(3) ‘legal person’ means any legal entity having such status under the applicable national law;

#### **Amendment 40**

##### **Proposal for a directive Article 2 – paragraph 1 – point 5 a (new)**

*Text proposed by the Commission*

*(5a) "polluter pays principle" means that polluters should bear the costs of their pollution or environmental damage, including the cost of measures taken to prevent, control and remedy pollution, as well as the costs the polluters impose on society;*

*Amendment*

#### **Amendment 41**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 5 b (new)**

*Text proposed by the Commission*

*Amendment*

**(5b) "One Health Approach" means an integrated, unifying approach that aims to sustainably balance and optimise the health of people, animals and ecosystems; it recognizes that the health of humans, domestic and wild animals, plants, and the wider environment including ecosystems are closely interlinked and inter-dependent.**

**Amendment 42**

**Proposal for a directive**  
**Article 3 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

**-1. Member States shall ensure that conducts committed intentionally or with at least serious negligence, directly or indirectly exposing the environment to an immediate risk of substantial damage and conducts that knowingly cause substantial damage to the environment constitute criminal offences.**

**Amendment 43**

**Proposal for a directive**  
**Article 3 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that the following **conduct constitutes** a criminal **offence** when **it is** unlawful and committed intentionally:

1. Member States shall ensure that the following **conducts constitute** criminal **offences** when **they are** unlawful and committed intentionally **or with serious negligence**:

## Amendment 44

### Proposal for a directive

#### Article 3 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the discharge, emission or introduction of a quantity of materials or substances or ionising radiation into air, soil or water which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

*Amendment*

(a) the discharge, emission or introduction of a quantity of materials or substances or ionising radiation into air, soil or water which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions***, animals or plants;

## Amendment 45

### Proposal for a directive

#### Article 3 – paragraph 1 – point b

*Text proposed by the Commission*

(b) the placing on the market of a product which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to animals or plants as a result of the product's use on a larger scale;

*Amendment*

(b) the placing on the market of a product which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to ***biodiversity, ecosystem services and functions***, animals or plants as a result of the product's use on a larger scale;

## Amendment 46

### Proposal for a directive

#### Article 3 – paragraph 1 – point c – introductory part

*Text proposed by the Commission*

(c) the manufacture, placing on the market or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:

*Amendment*

(c) the manufacture, placing on the market, ***export from the Union market***, or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:



## Amendment 47

### Proposal for a directive

#### Article 3 – paragraph 1 – point c – point vi a (new)

*Text proposed by the Commission*

*Amendment*

*(via) this activity is not in compliance with Directive 2009/128/EC of the European Parliament and of the Council<sup>1a</sup>*

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*<sup>1a</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71)..*

## Amendment 48

### Proposal for a directive

#### Article 3 – paragraph 1 – point c – subparagraph 2

*Text proposed by the Commission*

*Amendment*

and it causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

and it causes or is likely to cause 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 *biodiversity, ecosystem services and functions*, animals or plants;

## Amendment 49

### Proposal for a directive

#### Article 3 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) any conduct in breach of Regulation (EU) 2017/852 of the European Parliament and of the Council<sup>1a</sup>;*

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*<sup>1a</sup> Regulation (EU) 2017/852 of the European Parliament and of the Council*

*of 17 May 2017 on mercury, and  
repealing Regulation (EC) No 1102/2008  
(OJ L 137, 24.5.2017, p. 1).*

## **Amendment 50**

**Proposal for a directive  
Article 3 – paragraph 1 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

*(cb) any emission into the environment of any substances or pollutants not in compliance with Directive 2008/50/EC of the European Parliament and of the Council<sup>1a</sup> or Directive 2004/107/EC of the European Parliament and of the Council<sup>1b</sup>;*

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*<sup>1a</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).*

*<sup>1b</sup> Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (OJ L 23, 26.1.2005, p. 3).*

## **Amendment 51**

**Proposal for a directive  
Article 3 – paragraph 1 – point c c (new)**

*Text proposed by the Commission*

*Amendment*

*(cc) deliberate release into the environment of, cultivation of and placing on the market of genetically modified organisms when these activities are not in compliance with the requirements laid down in Directive 2001/18/EC of the European Parliament and of the Council<sup>1a</sup>, Regulation (EC) No 1829/2003 of the European Parliament and of the*

***Council<sup>1b</sup>, and Directive 2009/41/EC of the European Parliament and of the Council<sup>1c</sup> and when these activities cause or are likely to cause 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>1a</sup> Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).***

***<sup>1b</sup> Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p 1).***

***<sup>1c</sup> Directive 2009/41/EC of the European Parliament and of the Council of 6 May 2009 on the contained use of genetically modified micro-organisms (recast) (OJ L 125, 21.5.2009, p. 75).***

## **Amendment 52**

### **Proposal for a directive Article 3 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) the authorisation or the execution of a plan or project referred to in Article 6(3) of Council Directive 92/43/EEC without an appropriate assessment of its implications for the site in view of the site's conservation objectives, referred to in the same Article;***

## Amendment 53

### Proposal for a directive

#### Article 3 – paragraph 1 – point d b (new)

*Text proposed by the Commission*

*Amendment*

**(db) the authorisation or the execution of plans or projects authorized without the conditions of the exemption under Article 4(7) of Directive 2000/60/EC of the European Parliament and of the Council<sup>1a</sup> having been met;**

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<sup>1a</sup> **Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).**

## Amendment 54

### Proposal for a directive

#### Article 3 – paragraph 1 – point e – introductory part

*Text proposed by the Commission*

*Amendment*

(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:

(e) the collection, transport, **treatment**, recovery or disposal of waste, the supervision of such operations and the after-care of disposal sites, including action taken as a dealer or a broker (waste management), when an unlawful conduct:

## Amendment 55

### Proposal for a directive

#### Article 3 – paragraph 1 – point e – point i

*Text proposed by the Commission*

*Amendment*

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup> **and is undertaken in a non-negligible quantity;**

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>39</sup>;

<sup>39</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3–30).

<sup>39</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3–30).

## Amendment 56

### Proposal for a directive

#### Article 3 – paragraph 1 – point e – point ii

##### *Text proposed by the Commission*

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

##### *Amendment*

(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to ***biodiversity, ecosystem services and functions***, animals or plants;

## Amendment 57

### 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 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;

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<sup>42</sup> Directive 2005/35/EC of the European Parliament and of the Council of 7

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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).

September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11–21).

## Amendment 58

### 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. 17–119).

<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

##### *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 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 ***biodiversity, ecosystem services and functions***, 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).

operations and amending Directive 2004/35/EC (OJ L 178, 28.6.2013, p. 66–106).

## Amendment 59

### 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–

##### *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>, which causes or is likely to cause death or serious ***harm*** to any person's ***health*** or substantial damage to the quality of air, the quality of soil or the quality of water, ***or to biodiversity, ecosystem services and functions***, 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).

21).

#### Amendment 60

##### 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. ***The abstraction shall, for example, not lead 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 Annex V of Directive 2000/60/EC, and shall not compromise the achievement of good status/potential by 2027 in any of the waterbodies in the same river basin district;***

#### Amendment 61

##### 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;***

#### Amendment 62

##### 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

*Amendment*

(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes ***A, B and C***



(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;***

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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).

### **Amendment 63**

#### **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).

***to Council Regulation (EC) No 338/97, species listed in Annex IV and V (when population of species in Annex V are subject to the same measures as those adopted for species or population of species in Annex IV) to Council Directive 92/43/EEC<sup>49</sup>, the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>50</sup>, and those non-protected wild fauna or flora species the protection of which is necessary for the conservation of protected species that are part of the same ecosystem;***

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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).

##### *Amendment*

(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>;

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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 64

### Proposal for a directive

#### Article 3 – paragraph 1 – point n

*Text proposed by the Commission*

(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council<sup>52</sup>, ***except for cases where the conduct concerns a negligible quantity***; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.]

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<sup>52</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23–34).

## Amendment 65

### Proposal for a directive

#### Article 3 – paragraph 1 – point n a (new)

*Text proposed by the Commission*

*Amendment*

(n) ***illegal harvesting and transportation of timber, as well as*** the placing or making available on the Union market of illegally harvested timber or of timber products that were made of illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council<sup>52</sup>; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.]

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<sup>52</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23–34).

(na) ***the environmental damage to forests, such as committing forests fires intentionally or illegal logging***;

## Amendment 66

### Proposal for a directive

#### Article 3 – paragraph 1 – point n b (new)

*Text proposed by the Commission*

*Amendment*

***(nb) committing incompliance with respect to the legality and regularity of operations financed by the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) and incompliance with conditionality rules, in accordance with Regulation (EC) No 2021/2116 of the European Parliament and of the Council<sup>1a</sup>;***

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***<sup>1a</sup> Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (OJ L 35, 6.12.2021, p. 187).***

## Amendment 67

### Proposal for a directive

#### Article 3 – paragraph 1 – point o

*Text proposed by the Commission*

*Amendment*

(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of Article 6(2) of the Directive 92/43/EEC, ***when this deterioration is significant***;

(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of Article 6(2) of the Directive 92/43/EEC, ***or the significant disturbance of a species***;

## Amendment 68

### 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

(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;

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 ***biodiversity, ecosystem services and functions***, animals or plants;

#### **Amendment 69**

##### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point r a (new)**

*Text proposed by the Commission*

*Amendment*

***(ra) any negligent, reckless or deliberate conduct that causes forest fires, affecting an area of more than one hectare;***

#### **Amendment 70**

##### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point r b (new)**

*Text proposed by the Commission*

*Amendment*

***(rb) mistreatment, by any means or procedures, resulting in injury to domestic animals, tamed animals, or wild animals.***

#### **Amendment 71**

##### **Proposal for a directive**

##### **Article 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. Member States shall ensure that the conduct referred to in paragraph 1, points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r) also constitutes a criminal offence, when committed with at least serious negligence.***

***deleted***

## **Amendment 72**

### **Proposal for a directive Article 3 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Member States shall ensure that their national legislation provides for a crime of ecocide, which shall be considered as a criminal offence for the purposes of this Directive.**

## **Amendment 73**

### **Proposal for a directive Article 3 – paragraph 3 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

**(ea) the conservation status of the species affected and the habitat affected;**

## **Amendment 74**

### **Proposal for a directive Article 3 – paragraph 3 – point e b (new)**

*Text proposed by the Commission*

*Amendment*

**(eb) the estimated cost of restoration and the ecological and social value of the areas affected by environmental damage and the estimate of the number of persons who are victims of the environmental damage;**

## **Amendment 75**

### **Proposal for a directive Article 3 – paragraph 3 – point e c (new)**

*Text proposed by the Commission*

*Amendment*

**(ec) the financial gains obtained by the persons committing the offence;**

## Amendment 76

### Proposal for a directive

#### Article 3 – paragraph 3 – point e d (new)

*Text proposed by the Commission*

*Amendment*

**(ed) the cross-border dimension of the crime, including the cross-border character of the environmental damage and the cross-border characteristics of any criminal organisation.**

## Amendment 77

### Proposal for a directive

#### Article 3 – paragraph 4 – introductory part

*Text proposed by the Commission*

*Amendment*

4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality of water, or to animals or plants for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):

4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality of water, **to ecosystems, such as forest ecosystems, to habitats** or to animals or plants for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):

## Amendment 78

### Proposal for a directive

#### Article 3 – paragraph 4 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) the consequences on human health;**

## Amendment 79

### Proposal for a directive Article 3 – paragraph 4 – point c b (new)

*Text proposed by the Commission*

*Amendment*

**(cb) whether the act constitutes a violation or negligence of the due diligence.**

## Amendment 80

### Proposal for a directive Article 3 – paragraph 5 – point b

*Text proposed by the Commission*

*Amendment*

(b) the extent to which the regulatory threshold, value or another mandatory parameter is exceeded;

(b) the extent to which the regulatory threshold, value or another mandatory parameter **or hazardousness and toxicity threshold** is exceeded;

## Amendment 81

### Proposal for a directive Article 3 – paragraph 5 – point d a (new)

*Text proposed by the Commission*

*Amendment*

**(da) the financial gains obtained by those committing the offence;**

## Amendment 82

### Proposal for a directive Article 3 – paragraph 5 – point d b (new)

*Text proposed by the Commission*

*Amendment*

**(db) the polluter pays principle.**

## Amendment 83

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Article 3(1) are punishable as criminal offences.

*Amendment*

1. Member States shall ensure that inciting, and aiding and abetting the commission of any of the criminal offences referred to in Article 3(1) **and Article 3(2a)** are punishable as criminal offences.

## Amendment 84

### Proposal for a directive Article 4 – paragraph 2

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) **points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r)** when committed intentionally is punishable as a criminal offence.

*Amendment*

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) **and Article 3(2a)** when committed intentionally **or with serious negligence** is punishable as a criminal offence.

## Amendment 85

### Proposal for a directive Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a. Member States shall ensure that the CEO of undertakings can be prosecuted independently as a natural person if he or she has committed one of the offences referred to in Articles 3 and 4, irrespective of whether the undertaking as a legal person is also being prosecuted.**



## Amendment 86

### Proposal for a directive Article 5 – paragraph 2

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 are punishable by a maximum term of imprisonment of at least ten years if they cause or are likely to cause death or serious injury to any person.

*Amendment*

2. Member States shall take the necessary measures to ensure that offences referred to in Article **3(1) and 3(2a)** 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 87

### Proposal for a directive Article 5 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. Member States shall take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 are liable to a proportionate fine.**

## Amendment 88

### 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 **or fully cover the cost of restoration of** the environment **in accordance with the polluter pays principle** within a given time period **or, where reinstatement or restoration of the environment is not possible due to the nature of the crime, to compensate for the damage caused;**

## Amendment 89

### Proposal for a directive Article 5 – paragraph 5 – point b

*Text proposed by the Commission*

(b) fines;

*Amendment*

(b) fines ***proportionate to the gravity and duration of the damage caused to the environment as well as to the financial benefits accrued by committing the offence;***

## Amendment 90

### 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, accessories ***or act in the name of a legal person*** in the offences referred to in Articles 3 and 4.

## Amendment 91

### 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. ***Where possible, these sanctions shall be identical across Member States. The level of sanctions shall be graduated, reflecting the degree of severity and duration of the environmental consequences.***

## Amendment 92

### Proposal for a directive Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a. Member States shall ensure that precautionary measures pending the judicial decision allow for the immediate cessation of the criminal activity or the obligation to reinstate the environment where there is a risk of substantial or irreversible damage to the environment.**

## Amendment 93

### Proposal for a directive Article 7 – paragraph 2 – point b

*Text proposed by the Commission*

*Amendment*

(b) the obligation to reinstate the environment within a given period;

(b) the obligation to reinstate **or fully cover the cost of restoration of** the environment **in accordance with the polluter pays principle**, within a given period **of time**;

## Amendment 94

### Proposal for a directive Article 7 – paragraph 2 – point i a (new)

*Text proposed by the Commission*

*Amendment*

**(ia) withdrawal of offender's ownership right to the property acquired illegally or from illegal income, which is in relation to the committed crime;**

## Amendment 95

### Proposal for a directive Article 7 – paragraph 2 – point k

*Text proposed by the Commission*

*Amendment*

(k) publication of the judicial decision relating to the conviction or any sanctions

(k) publication of the judicial decision relating to the conviction or any sanctions

or measures applied.

or measures applied *and Union-wide publication of the judicial decision for offences with cross-border relevance.*

#### **Amendment 96**

##### **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 **10%** of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.

#### **Amendment 97**

##### **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*

#### **Amendment 98**

##### **Proposal for a directive Article 7 – paragraph 5 a (new)**

*Text proposed by the Commission*

*5a. Member States shall take the necessary measures to ensure that offences referred to in Article 3(2a) are punishable by fines, paid by the legal*

*Amendment*

*person committing the environmental offences, the maximum limit of which shall be 10% of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.*

## **Amendment 99**

### **Proposal for a directive Article 7 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**6a.** *Member States shall provide for the creation of a national fund dedicated to the financing of environmental decontamination, remediation or restoration, which shall be financed by administrative and criminal fines paid by the author of environmental offences as provided for in Articles 5(5)(a) and 7(2)(b).*

## **Amendment 100**

### **Proposal for a directive Article 8 – paragraph 1– point b**

*Text proposed by the Commission*

*Amendment*

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem;

(b) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem ***or to the conservation of populations of wild animal or plant species covered by Council Regulation (EC) No 338/97, Council Directive 92/43/EEC and Directive 2009/147/EC of the European Parliament and of the Council;***

## Amendment 101

### Proposal for a directive Article 8 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) the offence was committed within a protected site, such as the core area of national parks, Natura 2000 sites, UNESCO World heritage sites;***

## Amendment 102

### Proposal for a directive Article 8 – paragraph 1 – point f a (new)

*Text proposed by the Commission*

*Amendment*

***(fa) the offence is of a repetitive nature;***

## Amendment 103

### Proposal for a directive Article 8 – paragraph 1 – point j a (new)

*Text proposed by the Commission*

*Amendment*

***(ja) the offence is committed as a result of a deliberate, negligent or, reckless conduct that causes or is likely to cause damage to the cultural heritage of a territory.***

## Amendment 104

### 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, ***including by contributing financially to its restoration;***

## **Amendment 105**

### **Proposal for a directive**

#### **Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Member States shall take the necessary measures to ensure that frozen and confiscated assets are appropriately managed, according to their nature, and, where possible, used to finance reparation. For example, where appropriate, Member States should consider:***

## **Amendment 106**

### **Proposal for a directive**

#### **Article 10 – paragraph 1 a – point a (new)**

*Text proposed by the Commission*

*Amendment*

***(a) using confiscated financial assets to repair damage caused, compensate victims and/or finance measures aimed at combating similar crimes;***

## **Amendment 107**

### **Proposal for a directive**

#### **Article 10 – paragraph 1 a – point b (new)**

*Text proposed by the Commission*

*Amendment*

***(b) using confiscated financial assets to cover the costs associated with the appropriate management, housing and care of confiscated live animals;***

## **Amendment 108**

### **Proposal for a directive**

#### **Article 10 – paragraph 1 a – point c (new)**

*Text proposed by the Commission*

*Amendment*

***(c) offering confiscated wildlife products to appropriate public entities for***

*genuine educational and conservation purposes.*

## **Amendment 109**

### **Proposal for a directive Article 11 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.

*Amendment*

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, ***or after the offences are discovered***, in order for those criminal offences to be tackled effectively.

## **Amendment 110**

### **Proposal for a directive Article 11 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that special measures of limitation may be applied in cases of concealed offences where the offender has prevented the discovery of an offence. In this case, the time limit shall run only from the day when the offence could be established under conditions that allow prosecution.***

## **Amendment 111**

### **Proposal for a directive Article 11 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. Member ***State*** shall ***the*** take necessary measures to enable the investigation, prosecution, trial and judicial

*Amendment*

2. Member ***States*** shall take ***the*** necessary measures to enable the investigation, prosecution, trial and judicial



decision:

decision:

## 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 for the benefit of a legal person established on its territory;***

## Amendment 113

### Proposal for a directive Article 12 – paragraph 2 – subparagraph 1 – point a

*Text proposed by the Commission*

*Amendment*

***(a) the offence is committed for the benefit of a legal person established on its territory;*** ***deleted***

## Amendment 114

### Proposal for a directive Article 12 – paragraph 2 – subparagraph 1 – point c

*Text proposed by the Commission*

*Amendment*

***(c) the offence has created a severe risk for the environment on its territory.***

***(c) the offence has created a severe risk for the environment **or for the biodiversity** on its territory.***

## Amendment 115

### Proposal for a directive Article 12 – paragraph 2 – subparagraph 2

*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

Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article

12 of Council Framework Decision 2009/948/JHA<sup>59</sup>, be referred to Eurojust.

12 of Council Framework Decision 2009/948/JHA<sup>59</sup>, be referred to Eurojust. ***It shall also be referred, where appropriate, to Europol.***

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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)

## **Amendment 116**

### **Proposal for a directive Article 12 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The Commission shall produce a report on establishing an EU Green Prosecutor by extending the mandate of the European Public Prosecutor’s Office (EPPO), to cover environmental offences and to assist Member States in fighting environmental crime with cross-border elements.***

## **Amendment 117**

### **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 protection ***granted under Directive (EU) 2019/1937***, is applicable to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.

1. Member States shall take the necessary measures to ensure that protection is applicable to ***natural persons, as granted under Article 4 of Directive (EU) 2019/1937, and legal persons, including civil society organisations***, reporting criminal offences referred to in Articles 3 and 4 of this Directive.

## Amendment 118

### Proposal for a directive Article 13 – paragraph 2

*Text proposed by the Commission*

2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and 4 of this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary support and assistance in the context of criminal proceedings.

*Amendment*

2. Member States shall take the necessary measures to ensure that ***natural and legal*** persons reporting offences referred to in Articles 3 and 4 of this Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary support and assistance in the context of criminal proceedings.

## Amendment 119

### Proposal for a directive Article 13 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall take the necessary measures to ensure that legal and natural persons reporting criminal offences referred to in Articles 3 and 4 of this Directive are protected against manifestly unfounded or abusive court proceedings in the context of Directive (EU) 202x/xxxx<sup>(+)</sup> on Strategic Lawsuit Against Public Participation (SLAPP).***

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***(+) OJ please insert the number and publication reference of the act in procedure 2022/0117(COD).***

## Amendment 120

### Proposal for a directive Article 14 – title

*Text proposed by the Commission*

Rights for the public concerned to participate in proceedings

*Amendment*

Rights for the public concerned to ***access information and*** participate in proceedings

## Amendment 121

### Proposal for a directive Article 14 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

***-1. Member States shall ensure that the information enabling the public to know about the state of the proceedings prosecuted under this Directive, including the final judgments and sanctions imposed is considered to be in the public interest and is made available and accessible to the public.***

## Amendment 122

### Proposal for a directive Article 14 – paragraph 1

*Text proposed by the Commission*

*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 and 4, for instance as a civil party.

***1. Member States shall ensure that, in accordance with their national legal system, members of the public concerned, including non-governmental organisations, are able to access information and have appropriate rights to participate in proceedings concerning offences referred to in Articles 3 and 4, for instance as a civil party.***

## Amendment 123

### Proposal for a directive Article 14 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall provide for measures to reduce obstacles to the right to an effective remedy, thereby facilitating access to justice for members of the public concerned. Member States shall ensure that procedures are fair, equitable, timely and affordable. Member States shall establish networks of environmental lawyers who can assist members of the***

***public, including non-governmental organisations, to participate in such proceedings and to facilitate cross-border cooperation.***

## **Amendment 124**

### **Proposal for a directive Article 15 – paragraph 1**

*Text proposed by the Commission*

Member States shall take appropriate action, such as information and awareness-raising campaigns and research and education programmes, to reduce overall environmental criminal offences, raise public awareness and reduce the risk of population of becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders.

*Amendment*

Member States shall take appropriate action, such as information and awareness-raising campaigns ***targeting all relevant stakeholders both from the public and private sector, anti-corruption measures,*** 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 civil society organisations.***

## **Amendment 125**

### **Proposal for a directive Article 16 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 16a***

***Specialised environmental courts or environmental units within existing courts***  
***Member States shall take the necessary measures to strengthen and, where necessary, establish on their territory either specialised environmental courts or environmental units within existing courts to prosecute, investigate and judge the offences defined in Article 3 and 4 of this Directive.***

## Amendment 126

### Proposal for a directive Article 17 – paragraph 1

*Text proposed by the Commission*

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall ***request those responsible for the training of*** judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations ***to provide at regular intervals specialised training*** with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.

*Amendment*

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall ***provide sufficient resources and specialised training to ensure that*** judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations ***have the appropriate expertise, including qualifications, in environmental crime and environmental issues and organise with the help of the Commission exchange of best practices at Union level*** with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.

## Amendment 127

### 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, ***cybercrime, financial crime*** or other serious crime cases, are also available for investigating or prosecuting offences referred to in Articles 3 and 4, ***including the active presence of the prosecution services.***

## Amendment 128

### Proposal for a directive Article 18 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The investigative tools used by the EPPO shall also be used in the fight against environmental crime. Member States may use, among other investigative tools, the geospatial intelligence data provided by the EU Satellite Centre.***

## Amendment 129

### Proposal for a directive Article 19 – paragraph 1

*Text proposed by the Commission*

*Amendment*

Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent authorities involved in the prevention of and the fight against environmental criminal offences. Such mechanisms shall be aimed at least at:

Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent authorities involved in the prevention of and the fight against environmental criminal offences. ***Such measures shall include, inter alia, the obligation to establish specialised law enforcement units with dedicated contact points.*** Such mechanisms shall be aimed at least at:

## Amendment 130

### Proposal for a directive Article 19 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 19a***

***Cooperation between Member States, Commission (OLAF) and other Union bodies***

***Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, Member***

*States, Eurojust, Europol, the European Public Prosecutor's Office (EPPO) and the Commission shall, within their respective competences, cooperate with each other in the prevention and fight against the criminal offences referred to in Articles 3 and 4. To that end, the Commission shall provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations.*

*The European Public Prosecutor's Office (EPPO) shall be responsible, with its own powers and authority, for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, criminal offences. In that respect, the EPPO shall undertake investigations, and carry out acts of prosecution and exercise the functions of prosecutor in the competent courts of the Member States.*

#### **Amendment 131**

##### **Proposal for a directive Article 20 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) guidelines for the use of the proceeds of administrative and criminal sanctions for environmental restoration actions.*

#### **Amendment 132**

##### **Proposal for a directive Article 20 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Member States shall ensure that the strategy is reviewed and updated at regular intervals no longer than **5** years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding

2. Member States shall ensure that the strategy is reviewed and updated at regular intervals no longer than **3** years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding



environmental crime.

environmental crime.

### **Amendment 133**

#### **Proposal for a directive Article 21 – paragraph 3**

*Text proposed by the Commission*

3. Member States shall ensure that a consolidated review of their statistics **is** regularly published.

*Amendment*

3. Member States shall ensure that **the statistical data as well as** a consolidated review of their statistics **are** regularly published.

### **Amendment 134**

#### **Proposal for a directive Article 22 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) a common classification of sanctions;**

### **Amendment 135**

#### **Proposal for a directive Article 25 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Within one year of the entry into force of this Directive, the Commission shall present a homogeneous and harmonised classification of environmental crimes prepared with the Member States and a regulatory classification of sanctions adapted to provide guidance to national competent authorities, prosecutors and judges in the application of the sanctions provided for in this Directive.**

## **Amendment 136**

### **Proposal for a directive Article 25 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**3b. Within one year of the entry into force of this Directive, the Commission shall present guidelines to clarify the procedural framework for the participation of members of the public in the criminal prosecution of environmental offences, including the definition of easily accessible admissibility criteria.**

## **Amendment 137**

### **Proposal for a directive Article 27 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 27a**

**Amendments to Directive (EU) 2017/1371  
Directive (EU) 2017/1371 is amended as follows:**

**(1) The title is replaced by the following:**

**“Directive (EU) 2017/1371 of the European parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests and cross-border protection of the environment by means of criminal law;”**

**(2) In Article 18, the following paragraph is added:**

**“6. The Commission shall, without further delay following the decision of the European Council in accordance with Article 86(4) TFEU, present a legislative proposal to establish the EU Green Prosecutor by empowering the European Public Prosecutor’s Office to request investigations and initiate legal proceedings with respect to the criminal**

*offences covered by Directive 202x/xxxx of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC<sup>+</sup> and the environmental damage and crime with a Union scale, as well as a proposal to amend and complement accordingly Regulation (EU) 2017/1939 to reflect the extension of the EPPO's mandate to cover serious environmental crime.”*

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*+ OJ please insert the number and publication reference of the act in procedure 2021/0422(COD).*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Protection of the environment through criminal law and replacing Directive 2008/99/EC
<b>References</b>	COM(2021)0851 – C9-0466/2021 – 2021/0422(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 27.1.2022
<b>Opinion by</b> Date announced in plenary	PETI 24.3.2022
<b>Rapporteur for the opinion</b> Date appointed	Vlad Gheorghe 1.3.2022
<b>Date adopted</b>	30.11.2022
<b>Result of final vote</b>	+: 17 -: 13 0: 2
<b>Members present for the final vote</b>	Alex Agius Saliba, Andris Ameriks, Marc Angel, Margrete Auken, Markus Buchheit, Tamás Deutsch, Francesca Donato, Alexis Georgoulis, Vlad Gheorghe, Peter Jahr, Stelios Kypouropoulos, Cristina Maestre Martín De Almagro, Ana Miranda, Dolors Montserrat, Ulrike Müller, Emil Radev, Yana Toom, Loránt Vincze, Michal Wiezik, Tatjana Ždanoka
<b>Substitutes present for the final vote</b>	Jarosław Duda, Rosa Estaràs Ferragut, Demetris Papadakis, Anne-Sophie Pelletier, Marie-Pierre Vedrenne
<b>Substitutes under Rule 209(7) present for the final vote</b>	Pablo Arias Echeverría, Jorge Buxadé Villalba, Eider Gardiazabal Rubial, Alicia Homs Ginel, Hermann Tertsch, Marie Toussaint, Juan Ignacio Zoido Álvarez

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

17	+
NI	Tatjana Ždanoka
Renew	Vlad Gheorghe, Yana Toom, Marie-Pierre Vedrenne, Michal Wiezik
S&D	Alex Agius Saliba, Andris Ameriks, Marc Angel, Eider Gardiazabal Rubial, Alicia Homs Ginel, Cristina Maestre Martín De Almagro, Demetris Papadakis
The Left	Alexis Georgoulis, Anne-Sophie Pelletier
Verts/ALE	Margrete Auken, Ana Miranda, Marie Toussaint

13	-
ECR	Jorge Buxadé Villalba, Hermann Tertsch
ID	Markus Buchheit
NI	Francesca Donato
PPE	Pablo Arias Echeverría, Jarosław Duda, Rosa Estaràs Ferragut, Peter Jahr, Stelios Kypouropoulos, Dolors Montserrat, Emil Radev, Loránt Vincze, Juan Ignacio Zoido Álvarez

2	0
NI	Tamás Deutsch
Renew	Ulrike Müller

**Key to symbols:**

+ : in favour

- : against

0 : abstention



## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Protection of the environment through criminal law and replacing Directive 2008/99/EC			
<b>References</b>	COM(2021)0851 – C9-0466/2021 – 2021/0422(COD)			
<b>Date submitted to Parliament</b>	15.12.2021			
<b>Committee responsible</b> Date announced in plenary	JURI 27.1.2022			
<b>Committees asked for opinions</b> Date announced in plenary	DEVE 24.3.2022	ENVI 27.1.2022	LIBE 27.1.2022	PETI 24.3.2022
<b>Rapporteurs</b> Date appointed	Antonius Manders 28.2.2022			
<b>Previous rapporteurs</b>	Manon Aubry			
<b>Discussed in committee</b>	14.7.2022	27.10.2022	29.11.2022	
<b>Date adopted</b>	21.3.2023			
<b>Result of final vote</b>	+: -: 0:	22 0 0		
<b>Members present for the final vote</b>	Pascal Arimont, Manon Aubry, Ilana Cicurel, Virginie Joron, Sergey Lagodinsky, Gilles Lebreton, Maria-Manuel Leitão-Marques, Karen Melchior, Raffaele Stancanelli, Marie Toussaint, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann, Tiemo Wölken, Lara Wolters			
<b>Substitutes present for the final vote</b>	Daniel Buda, Pascal Durand, Antonius Manders, Emil Radev, René Repasi			
<b>Substitutes under Rule 209(7) present for the final vote</b>	Frances Fitzgerald, Fabienne Keller			
<b>Date tabled</b>	28.3.2023			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

<b>22</b>	<b>+</b>
ECR	Raffaele Stancanelli
ID	Virginie Joron, Gilles Lebreton
PPE	Pascal Arimont, Daniel Buda, Frances Fitzgerald, Antonius Manders, Emil Radev, Axel Voss, Marion Walsmann
Renew	Ilana Cicurel, Fabienne Keller, Karen Melchior, Adrián Vázquez Lázara
S&D	Pascal Durand, Maria-Manuel Leitão-Marques, René Repasi, Tiemo Wölken, Lara Wolters
The Left	Manon Aubry
Verts/ALE	Sergey Lagodinsky, Marie Toussaint

<b>0</b>	<b>-</b>

<b>0</b>	<b>0</b>

Key to symbols:

+ : in favour

- : against

0 : abstention