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**Interinstitutional File:
2021/0422(COD)**

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NOTE

From:	Presidency/General Secretariat of the Council
To:	Delegations
No. prev. doc.:	8321/23
No. Cion doc.:	14459/21 + COR 1
Subject:	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 - Continuation of the examination of the amendments proposed by the European Parliament

Introductory remarks

At its meeting on 3 May 2023, the COPEN Working Party examined the draft amendments of the European Parliament for the first time, working on the basis of 8321/23.

During the meeting, as well as subsequently in writing (9185/23), the delegations provided useful input in view of the first trilogue, which was held on 4 May 2023 (Brussels), and in view of the first technical meetings, which were held on 10 and 11 May 2023 (Strasbourg).

During the trilogue and the technical meetings, the Presidency explained the position of the Council and requested explanations from the European Parliament, as agreed during the COPEN meeting.

The Commission was invited to make some compromise texts, which were submitted to the negotiating parties.

The European Parliament stated that it would reflect on the explanations provided by the Council and on the compromise texts submitted by the Commission.

Feedback from the European Parliament

After deliberations, the European Parliament provided feedback on Thursday afternoon 25 May 2023. The feedback is set out in the fourth column of the attached five column table.

The EP summarised its position as follows (NB: CNL = Council):

1. *We can agree to CNL GA on rows 69-74, 75a, 78, 80, 86, 89, 94, 100, 103, 109 and partially on rows 76, 77, 81, 83, 83a, 93, 112 and 113;*
2. *We agree with COM reformulations on rows 53, 88 and 110;*
3. *We can agree to drop our amendments in articles when they are moved to recitals in rows 61, 68 (partially), 86, 93, 103, 108 or other relevant parts of the text (101e and 11a);*
4. *We invite COM to work on reformulations or assessments of proposed changes in rows 63a, 67, 84 (in this case we think it is best if all tree institutions produce short justifications by their legal services), 94a and 94b;*
5. *We propose concrete trade-offs in rows 61 and 87.*

For the other rows, we either stick to our proposals or we are still in the process of assessing them.'

Further, the EP suggested discussing the catch-all provision (see row 94c) directly at the political level, “*due to the high political importance of this row*”. It also stated that it considered the issue of structuring the definitions open.

Assessment by the Presidency

In the attached five column table, the Presidency has marked the lines on which there is agreement in **green**.

In view of the technical meetings on 1 and 2 June 2023, the Presidency would appreciate it to obtain views on several outstanding issues, namely the lines marked by **yellow**. In order to assist delegations, the Presidency has set out suggestions in the fifth column concerning these (yellow) lines.

Member States are invited to examine these suggestions and state their opinion at the meeting on 31 May 2023.

Catch-all provision

As set out before, the EP would like to discuss the ‘catch-all provision’ in Article 3.1a (line 94c) at the political trilogue on 13 June 2023.

In order to be able to have a meaningful discussion, the Presidency has asked the European Parliament for more information on this amendment. As soon as the Presidency has obtained such information, it will forward it to the delegations.

This being, the Presidency would like to invite the Member States to reflect again on this amendment, which seems very important to the European Parliament. Could anything be offered to the European Parliament on this issue?

Concluding remarks

The Presidency is looking forward to a fruitful meeting on 31 May 2023. The Presidency thanks Member States in advance for their cooperation and for any flexibility they can show on this file.

**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**

2021/0422(COD)

II

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Formula					
1	2021/0422 (COD)	2021/0422 (COD)	2021/0422 (COD)		
Proposal Title					
2	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	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	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		
Formula					
3					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		
Citation 1					
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 83(2) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 83(2) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles Article 83(2) thereof,		
Citation 2					
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,		
Citation 3					
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,		
Citation 4					
7					

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	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C, , p. .	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C, , p. .	Having regard to the opinion of the European Economic and Social Committee ¹ , 1. OJ C, , p. .		
Citation 5					
8	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,		
Formula					
9	Whereas:	Whereas:	Whereas:		
Recital 1					
10	(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	(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	(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		

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	improvement of the quality of the environment.	of the environment. <u>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.</u>	improvement of the quality of the environment.		
10a		<u>(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.</u>			

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		<u><i>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.</i></u>			
Recital 2					
11	(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. <u><i>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</i></u>	(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.		

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		<p><u><i>economy^{1a}, ^{1b} and is now as lucrative as drug trafficking^{1c}</i></u>. Such offences pose a threat to the environment and therefore call for <u><i>ana proportionate</i></u>, appropriate and effective response, <u><i>requiring effective cross-border cooperation</i></u>.</p> <p><u><i>1a. INTERPOL-UN Environment (2016), Strategic Report: Environment, Peace and Security, A Convergence of Threats.</i></u></p> <p><u><i>1b. UNEP (2018), The State of knowledge of crimes that have serious impacts on the environment.</i></u></p> <p><u><i>1c. Eurojust (2021), Rapport sur le travail d'Eurojust sur les crimes environnementaux.</i></u></p>			
	Recital 3				
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	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council¹ 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.</p> <p>1. 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).</p>	<p>(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council¹ 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 <u>appropriate</u> criminal penalties <u>that are sufficiently dissuasive and commensurate with the seriousness of the offences</u>, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties. <u>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</u></p>	<p>(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council¹ 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.</p> <p>1. 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).</p>		

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		<p><u><i>complements such law to prevent unlawful conduct that damages the environment and that serves to deter such conduct.</i></u></p> <p>1. 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).</p>			
Recital 4					
13	(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	(4) The effective <u><i>detection.</i></u> 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 <u><i>targeted</i></u> additional categories of offences based	(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		

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	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.	<u>only</u> on the most serious breaches of Union environmental law should be added. <u>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.</u> Provisions on sanctions <u>and penalties</u> should be strengthened <u>and adapted to the degree of severity and duration of the damage caused</u> in order to enhance their deterrent <u>and compensatory</u> effect as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.	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.		
Recital 5					
14	(5) Member States should criminalise offence categories and provide for greater precision on the	(5) Member States should criminalise offence categories and provide for greater precision on the	(5) Member States should criminalise offence categories and provide for greater precision on the		

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	definitions of the offence categories, and harmonisation concerning sanction types and levels.	definitions of the offence categories, and harmonisation concerning sanction types and levels.	definitions of the offence categories, and harmonisation concerning sanction types and levels.		
Recital 6					
15	(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 ¹ 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	<i>deleted</i>	(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 ¹ 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		

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	<p>systems. In line with the Communication from the Commission on the European Green Deal² and the EU Biodiversity Strategy for 2030³, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008⁴ should be established as criminal offences.</p> <p>1. 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).</p>		<p>systems. In line with the Communication from the Commission on the European Green Deal² and the EU Biodiversity Strategy for 2030³, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008⁴ should be established as criminal offences.</p> <p>1. 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).</p>		

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	<p>2. 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.</p> <p>3. 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</p>		<p>2. 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 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).</p> <p>3. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE</p>		

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	<p>2030 Bringing nature back into our lives, COM/2020/380 final</p> <p>4. 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).</p>		<p>COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS 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: EU Biodiversity Strategy for 2030 Bringing nature back into our lives; (COM/2020/380 final).</p> <p>4. Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing,</p>		

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			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).		
Recital 7					
16	(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	(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment, <i>irrespective of its legal basis</i> , 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.	(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law which aims to pursue one of the objectives of the Union's environmental policy, and that has been adopted, in particular, on the basis of Articles 91, 114, 168 or 192 TFEU, or under protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes		

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	<p>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.</p>	<p>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 <u>harm to any person's health</u>, 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.</p>	<p>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 at least 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 should also constitute a criminal offence when committed with at least serious negligence. This Directive does not require the introduction of the notion of at least serious negligence for each element of the offence,</p>		

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			<p>such as for possession, sale or offering for sale, placing on the market and similar elements. In these cases, Member States may limit criminal liability to cases where the notion of at least serious negligence relates to certain elements of the offence, such as the protection status, negligible quantity, or the likelihood of the act to cause substantial damage. Member States remain free to adopt or maintain more stringent criminal law rules in that area. Unless expressly defined in this Directive, the terms used in this Directive should be construed within the meaning of the legal acts respectively and specifically applicable to a particular conduct, when they are defined in those acts. This Directive should not have the effect of modifying the obligation to respect the fundamental rights and</p>		

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			legal principles as enshrined in Article 6 of the TEU, including the principle of nullum crimen, nulla poena sine lege.		
Recital 8					
17	(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	(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, <u>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</u> , or by corruption, extortion, <u>coercion, or by any other unlawful conduct. Conduct should also be considered unlawful when it breaches</u>	(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, inter alia , 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		

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	<p>and national laws, in procedures governing amendments or updates to existing authorisations.</p>	<p><u><i>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 or coercion.</i></u> 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.</p>	<p>and national laws, in procedures governing amendments or updates to existing authorisations. Indeed, being in possession of such an authorisation does not preclude the criminal liability of the holder of the authorisation, as long as the authorisation is unlawful and the holder had knowledge of this unlawfulness or could not be unaware of it. Moreover, where an authorisation is required, the fact that the authorisation is lawful does not preclude criminal proceedings against the holder of the authorisation who does not comply with all specific obligations of the authorisation or with other relevant legal obligations not covered by the authorisation.</p>		

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17a		<p><u><i>(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.</i></u></p>	<p>(8bis) 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.</p>		
17b					

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		<p><u><i>(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</i></u></p>			

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		<u>supply of products should be stopped immediately.</u>			
17c		<u>(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.</u>			See line 61
Recital 9					
18	(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.	<i>deleted</i>	(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. Some criminal offences in this		

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			<p>Directive include a qualitative threshold requiring that the conduct causes death or serious injury to any person or substantial damage to air, water or soil quality, or to animals or plants. Since such damage may result in harm to biodiversity and ecosystem services the qualitative threshold should be understood in a wide sense including, where relevant, substantial damage to fauna and flora, habitats and services provided by natural resources.</p>		
18a			<p>(9bis) Among other offences, this Directive defines an offence concerning the placing on the market, in breach of a prohibition or another requirement aimed at protecting the environment, of a</p>		

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			<p>product, the use of which results in 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 air, water or soil quality, or to animals or plants as a result of the product's use on a larger scale. In this context, the use on a larger scale refers to the combined effect of the use of the product by several users, notwithstanding their number, as long as the offence causes or is likely to cause damage to the environment or human health.</p>		
Recital 10					
19	(10) The acceleration of climate change, biodiversity loss and	(10) The acceleration of climate change, biodiversity loss and environmental	(10) The acceleration of climate change, biodiversity loss and environmental		

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	<p>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.</p>	<p>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 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,</p>	<p>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 The references in this Directive to the relevant terms in Union environmental law used for the purpose of defining unlawful conducts should be construed, where applicable, in accordance with definitions provided in Union legislation environmental law covered by this Directive evolves. This Directive should therefore also cover any Union acts amending provisions or requirements relevant to defining unlawful conduct which falls updated or amended Union legislation falling within the scope of criminal offences defined</p>		

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		<p><u>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.</u></p>	<p>under this Directive, when the obligations under. When drafting such amending Union law remain unchanged in substanceacts, the legislators are encouraged to include a reference to this Directive. However, when new legal instruments prohibit new conduct harmful to the environment, categories of unlawful conduct not yet covered by the scope of this Directive should be amended in order to add to the categories of criminal offences also the new serious breaches of Union environmental laware defined in Union environmental law, an amendment to this Directive should be required to include those new categories of unlawful conduct in its scope .</p>		
Recital 11					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
20	(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.	(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.	(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 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.		
20a					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>(11bis) Where an unlawful conduct provided for in this Directive, committed intentionally, causes the death to any person, the intention should be interpreted in accordance with national laws. Therefore, it could be understood, for the purposes of this Directive, as the intention to cause death, or it could also cover the situation in which the perpetrator has acted, or refrained from acting, voluntarily and in violation of a particular obligation, but without wanting or accepting the death of any person that nevertheless occurred. The same logic applies where an unlawful conduct provided for in this Directive, committed intentionally, causes serious injury to any person.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
20b			(11ter) With regard to the criminal offences provided for in this Directive, the notion of at least serious negligence should be interpreted in accordance with national law.		
Recital 12					
21	(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	(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. <u>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.</u> Criminal proceedings should address corruption, money laundering, cyber-crime and	(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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.</p>	<p>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</p>	<p>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.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p>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.</p> <p><u><i>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.</i></u></p>			
Recital 13					
22	(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence	(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence	(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	that causes death or serious injury of a <u>harm to any</u> person's <u>health</u> , substantial damage to the environment <u>quality of air, the quality of soil or the quality of water, or to biodiversity, ecosystem services and functions, animals or plants</u> , 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.	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.		
Recital 14					
23	(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	(14) <u>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</u>	(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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.</p>	<p><u>caused, as well as the potential for reinstatement or restoration of the environment and the costs involved in such reinstatement or restoration.</u> Minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions <u>or measures</u> are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore <u>be</u> available in criminal proceedings <u>in accordance with national legal systems.</u> These should include the obligation to reinstate the environment, exclusion from access to public funding, including tender procedures, grants, <u>concessions and licences and concessions</u> and withdrawal of permits and authorisations <u>and making sentences public. In cases</u></p>	<p>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. law systems of all Member States include provisions on homicide, either committed intentionally or with serious negligence.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><u>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.</u> This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases.</p>	<p>Member States should be able to have recourse to those general provisions, including provisions on aggravating circumstances, when transposing the provisions in this Directive relating to offences that cause death to any person, whether committed intentionally or with serious negligence.</p>		
23a			<p>(14a) Accessory sanctions or measures are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should be therefore available in the proceedings. Those sanctions or measures may include the</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			obligation to reinstate the environment, temporary or permanent 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.		
Recital 15					
24	(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	(15) Where national law provides for it, Legal persons should also be held criminally liable for environmental criminal offences according to this Directive, <u>when they are perpetrators, instigators or accomplices in offences.</u> Member States whose national law does not provide for the criminal liability of legal persons	(15) Where Insofar as conduct constituting an environmental offence is attributable to legal persons , such legal persons should be liable for environmental criminal offences, as defined in this Directive. Member States whose national law provides for it, the criminal liability of legal persons should also be		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.</p>	<p>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. <u>The severity and nature of the offence in terms of its scale and the irreversibility of the damage resulting from the offence as well as the</u> financial situation of legal persons should be taken into account to ensure the <u>proportionality and</u> dissuasiveness of the sanction imposed.</p>	<p>held criminally liable for environmental criminal offences according to ensure that their national laws provide for criminal effective, dissuasive and proportionate sanction types and levels as laid down in this Directive in order to achieve its objectives. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems national laws provide for non-criminal effective, dissuasive and proportionate sanctions sanction types and levels as laid down in this Directive in order to achieve its objectives. The maximum levels of fines provided for in this Directive for the offences referred to therein should apply at least to the most serious forms of such offences. The seriousness</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>of the conduct, as well as the individual, financial situation of and other circumstances of the legal persons, should be taken into account to ensure the effectiveness, dissuasiveness and proportionality of the sanction imposed. With regard to maximum levels of fines in national law, Member States may either use a percentage of the total worldwide turnover of the legal person concerned, or they may determine the maximum level of fines in absolute amounts. Member States should decide which alternative they choose when transposing this Directive.</p>		
24a		<p><u>(15a) It is important to proceed quickly with the establishment of robust Union rules for</u></p>	<p>(15a) Where, with regards to the determination of fines to be imposed on legal</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><u><i>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.</i></u></p>	<p>persons, Member States opt to implement the criterion of the total worldwide turnover of a legal person, they should decide whether to calculate the total worldwide turnover based on either the business year preceding the one in which the offence was committed, or the business year preceding the fining decision, when transposing this Directive. They should also consider providing for rules for cases where it is not possible to determine the amount of a fine on the basis of the total worldwide turnover of the legal person in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision. In such cases, it should be possible to take into account other criteria, such as the total</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>worldwide turnover in one of the other preceding business years. Where those rules include the setting of amounts of fines in absolute numbers, then the maximum levels of these should not have to reach the levels established in this Directive as the minimum requirement for the maximum level of fines determined in absolute amounts.</p>		
24b			<p>(15b) Where Member States opt for maximum level of fines determined in absolute amounts, such levels should be laid down in national law. The highest levels of such fines should apply to the most serious forms of offences provided for in this Directive, which are committed by financially strong legal persons.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>Member States may decide on the method of calculation of those levels of fines including specific conditions for the highest levels of those fines.</p> <p>Member States should be invited to regularly review the levels of fines determined in absolute amounts with regard to rates of inflation and other fluctuations in monetary value, in line with procedures set out in their national law.</p> <p>Member States that do not have the euro as their currency should provide for maximum levels of fines in their currency corresponding to the levels determined in this Directive in euro on the date of adoption of this Directive. Those Member States are invited to regularly review the levels also with regard to the development of the exchange rate.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
24c			<p>(15c) The definition of the maximum level of fines is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases. As this Directive does not set out any minimum levels of fines, the judges or courts should, in any case, impose appropriate sanctions taking into account the individual, financial and other circumstances of the legal person concerned and the seriousness of the conduct. While the maximum level of fine provided for the respective criminal offence by this Directive should be taken into account, the actual fine imposed in an individual case should not have to reach the maximum level</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			of fine determined by this Directive.		
Recital 16					
25	(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	(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, <u>a person</u> or serious injury to, a <u>harm to any person's health</u> , have been caused and where these elements are not already constituent for the criminal offence, these could be considered as or <u>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,</u>	(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 The notion of aggravating circumstances should be understood either as facts allowing the judge to pronounce a higher sentence for the same offence than the one normally incurred without these facts, or as the possibility of retaining several offences cumulatively in order to		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.</p>	<p><u>or in an area where the offence is likely to have a significant effect in view of the conservation objectives for a protected site, these should be</u> aggravating circumstances. <i>Equally;</i> When an environmental criminal offence causes <i>substantial and irreversible or long-lasting</i> <u>severe and widespread, or severe and long-term, or severe and irreversible</u> damage to an <i>entire</i> <u>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.</u> this should be an aggravating circumstance because of its severity; <i>including in cases comparable to</i> <u>considered a crime of particular gravity, and sanctioned as such in accordance with the legal systems of the Member States, covering</u> ecocide, <u>for which the United Nations are currently</u></p>	<p>increase the level of sanction. Member States should provide for the criminal offence, these could be considered possibility of at least one of these aggravating circumstances. Equally; when an environmental criminal offence causes <u>substantial and irreversible or long-lasting damage to an entire ecosystem, this in accordance with the applicable rules established by their legal systems on aggravating circumstances. In any case, it should be an</u> 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 <u>remain within the discretion of the judge or the court to determine the actual amount of the sanction, taking into account all the</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><u>working on an official international definition</u>. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be <u>calculated as accurately as possible and</u> taken into account when determining the appropriate level of sanctioning in the individual case.</p>	<p>circumstances of the individual case. Where an environmental crime are an important incentive for criminals, these criminal offence causes destruction or irreversible or long-lasting substantial damage to an entire ecosystem, this should be taken into account when determining the appropriate level of sanctioning in the individual case an aggravating circumstance because of its severity, including in cases comparable to ecocide.</p>		
Recital 17					
26	<p>(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.</p>	<p>(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. <u>The competent judicial authorities should be entitled to order the immediate cessation of the unlawful conduct or to impose measures to</u></p>	<p>Moved to row 31a [26 - 31a] Moved to row 31a</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><u>prevent the execution of such conduct, in order to avert damage to the environment.</u> Where offenders have made financial gains, such gains <u>and other proceeds and instrumentalities</u> should be confiscated <u>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.</u></p>			
Recital 18					
27	(18) This Directive should apply without prejudice to the general rules and principles of national criminal law on the sentencing or the application and execution	(18) This Directive should apply without prejudice to the general rules and principles of national criminal law on the sentencing or the application and execution	(+817) This Directive should apply without prejudice to the general rules and principles of national criminal law on the sentencing or the application and execution		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	of sentences in accordance with the specific circumstances in each individual case.	of sentences in accordance with the specific circumstances in each individual case.	of sentences in accordance with the specific circumstances in each individual case. With regard to additional sanctions or measures the Member States should decide which type of sanctions or measures should be seen as appropriate. In particular, concerning the obligation to reinstate the environment within a given period, provided that the damage is reversible, this Directive does not require that a judicial authority, if entitled to impose this obligation according to national law, should also be responsible for monitoring the execution of this obligation. Likewise, concerning the withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence, if such a sanction can be		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>imposed under national law, Member States should ensure that national judicial authorities should be able to either impose it themselves in their own proceedings, or that another competent authority is informed and can act according to its national procedural rules. Additionally, the publication of the decision imposing the sanctions or measures upon a legal person should be applied in accordance with the right to privacy and without prejudice to the national rules governing the anonymization of court decisions or the duration of publication.</p>		
27a		<p><u>(18a) Notwithstanding the benefits of this Directive in improving legal coherence at Union level, the Union</u></p>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><i><u>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.</u></i></p>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
27b		<u><i>(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.</i></u>			
Recital 19					
28	(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.	Moved to row 31b [28 - 31b] Moved to row 31b		
Recital 20					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
29	(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.	(20) The obligations in this Directive to provide for criminal penalties should not exempt Member States from the obligation to provide for <u>effective, proportionate, dissuasive and deterrent</u> administrative sanctions and other measures in national law for breaches established in Union environmental legislation.	(20 18) 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.		
Recital 21					
30	(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	(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	(21 19) 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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of <i>ne bis in idem</i> .	respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of <i>ne bis in idem</i> .	respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of <i>ne bis in idem</i> ne bis in idem .		
Recital 22					
31	(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.	(22) Furthermore, judicial and administrative authorities in the Member States should have at their disposal a <u>necessary and appropriate</u> range of criminal <u>penalties and sanctions</u> , <u>confiscation</u> and other measures to address different types of criminal behaviour in a tailored, <u>timely, proportionate</u> and effective manner.	(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.		
31a	(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where		(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>offenders have made financial gains, such gains should be confiscated.</p> <p>Moved reference text</p>		<p>Where offenders have made financial gains, such gains should be confiscated.</p> <p>Moved from row 26 [26 - 31a]</p> <p>Moved from row 26</p>		
31b	<p>(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.</p> <p>Moved reference text</p>		<p>(+922) 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. Where Member States are permitted to derogate from the limitation periods, provided that the period may be interrupted or suspended in the event of specified acts, such acts may be defined in accordance with the legal</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>system of each Member State.</p> <p>Moved from row 28 [28 - 31b]</p> <p>Moved from row 28</p>		
31c		<p><u><i>(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.</i></u></p>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>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.</i></u>			
Recital 23					
32	(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.	(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.	(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. Member States should also cooperate with Eurojust, in particular on the basis of Regulation		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>(EU) 2018/1727 of the European Parliament and of the Council¹, in cases where conflicts of competence may arise. Jurisdiction established over offences committed on board of a ship or an aircraft registered in it or flying its flag should take account of related standards already existing under pertaining international conventions. This Directive does not oblige Member States to newly establish such jurisdiction over offences that, due to their nature, may not be committed on board of a ship or an aircraft.</p> <p>1. Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			(Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138–183).		
32a			(23a) Member States are also obliged to establish jurisdiction over offences defined in this Directive when the damage forming part of the constituent elements of the offence occurred on their territory. In accordance with national law, this form of jurisdiction may be covered under jurisdiction established over offences committed in whole or in part on its territory, in line with the territoriality principle.		
32b					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>(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</p>		<p>(2924) 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, if and to the extent that the use of those tools should include among others is appropriate and proportionate to the nature and gravity of the offences as defined in national law. Tools such as the interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools could be included. These tools should be applied in line with the principle of proportionality and in full respect of the Charter of Fundamental Rights of the</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>right to the protection of personal data must be respected.</p> <p>Moved reference text</p>		<p>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.</p> <p>Moved from row 38 [38 - 32b]</p> <p>Moved from row 38</p>		
Recital 24					
33	<p>(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</p>	<p>(24) Environmental criminal offences harm nature and society. By reporting breaches of Union environmental law, people <u>and civil society organisations</u> perform a service of public interest and play a key role in exposing and preventing such breaches, and thus safeguarding <u>the environment, human rights and</u> the welfare of society.</p>	<p>(2425) 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</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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 Council¹.</p> <p>1. 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).</p>	<p>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 Council¹.</p> <p>1. 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).</p>	<p>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 whistleblower protection set out under Directive (EU) 2019/1937 2019/1937 of the European Parliament and of the Council¹, which includes Directive 2008/99/EC and Directive 2009/123/EC within its scope. Following the replacement of Directives 2008/99/EC and 2009/123/EC by this Directive, whistleblowers should, by virtue of this Directive, continue to benefit from that protection from the</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>Member States bound by it.</p> <p>1. 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).</p>		
Recital 25					
34	<p>(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</p>	<p>(25) Other <u>natural or legal</u> persons may also possess valuable information concerning potential environmental criminal offences. They may be<u>include</u> members of the community affected, <u>civil society organisations, including non-governmental organisations,</u> or members of society at large taking an active part in protecting the environment. Such persons who report environmental</p>	<p>(25)(26) 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</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.</p>	<p>crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary <i>protection</i>, 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.</p>	<p>with 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 The necessary support and assistance measures should be available to such persons in accordance with their procedural rights in the national legal system and should include at least all support and assistance measures available to persons having corresponding procedural rights in criminal proceedings concerning other criminal offences. Those persons should, in accordance with their procedural rights in the national legal system, also be protected from being harassed or unduly prosecuted persecuted for reporting such offences or their cooperation in the criminal proceedings. The</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>content of the necessary support and assistance measures is not defined by this Directive and should be determined by Member States. Member States should not be required to make available the support and assistance measures to persons who are suspected or accused in the context of the criminal proceedings concerned.</p>		
34a		<p><u>(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.</u></p>			
34b					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><i><u>(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.</u></i></p>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Recital 26					
35	<p>(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 Convention¹, 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.</p> <p>¹. United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.</p>	<p>(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 Convention¹, 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.</p> <p>¹. United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.</p>	<p>(2627) 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⁺, 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.</p> <p>⁺. United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
35a		<p><u><i>(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.</i></u></p>	<p>(27a) This Directive should not require Member States to introduce any specific procedural rights for the members of the public concerned. However, when such procedural rights for members of the public concerned exist in a Member State in equivalent situations concerning other criminal offences, for example where they have the right to participate as a civil party, such procedural rights should also be granted to the members of the public concerned in the proceedings concerning environmental offences defined in this Directive. Rights of the members of the public concerned are without prejudice to the rights of victims as defined in Directive 2012/29/EU of the European Parliament and of the Council¹. This</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>Directive acknowledges that members of the public concerned and victims remain two distinct concepts and does not require Member States to apply victims' rights to members of the public concerned. This Directive should not require Member States to grant to the public concerned the procedural rights in criminal proceedings that they grant to categories of persons other than the public concerned.</p> <p>1. 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,</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			(OJ L 315, 14.11.2012, p. 57–73).		
35b		<u>(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</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>liable for offences committed.</u>			
Recital 27					
36	(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.	(27) Lack of resources and enforcement powers for national authorities <u>and other relevant authorities</u> 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.	(27 28) 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.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Recital 28					
37	(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	(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 <i>and financial support</i> 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	(2829) 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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	States should also, <u>where appropriate and in accordance with national law, assign-consider assigning</u> specialised investigation units, prosecutors and criminal judges to deal with environmental criminal cases. General criminal courts could <u>and</u> provide for specialised chambers of judges. Technical expertise <u>and financial support</u> should be made available to all relevant enforcement authorities.	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.		
Recital 29					
38	(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	(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	Moved to row 32b [38 - 32b] Moved to row 32b		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	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.			
Recital 30					
39	(30) To ensure an effective, integrated and coherent enforcement system that includes	(30) To ensure an effective, integrated and coherent enforcement system that includes administrative,	(30) To ensure an effective, integrated and coherent enforcement system that includes administrative,		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	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.	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.		
39a		<u>(30a) Given the high financial impact of environmental offences, their potential link with</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><u><i>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.</i></u></p>			
Recital 31					
40	(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish and	(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish and	(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish, implement		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed.	periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed.	and periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed. The national strategy should address, among other areas, the objectives and priorities of national policy in this area of offence, the methods of coordination and cooperation between the competent authorities, the procedures and mechanisms for regular monitoring and evaluation of the results achieved, and the assistance of European networks working on matters directly relevant to combating environmental offences and related infringements. Member States may decide on the appropriate format of such strategy which may take into account their		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>constitutional traditions in terms of separation of powers and competences and may be either sectorial or a part of a broader strategical document. Without prejudice to whether the Member States provide for the adoption of one or more strategies, their overall content should encompass the territory of the entire Member State.</p>		
Recital 32					
41	<p>(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</p>	<p>(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</p>	<p>(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 statistical 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 environmental</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.</p>	<p>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, <u>and make available online to the public</u>, relevant statistical data on environmental offences, <u>in particular specifying the sanctions imposed on the offenders. At Union level.</u> –the Commission should regularly assess and publish the results based on the data transmitted by the Member States.</p>	<p>offences . Member States should therefore be obliged to ensure that an adequate system is in place for the recording, production and provision of existing statistical data on the offences referred to in this Directive. Those statistics should be used to serve the operational and strategic planning of enforcement activities, to analyse the scale of and trends in environmental offences, 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.</p>		
Recital 33					
42					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>(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 Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles</p>	<p>(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 Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles</p>	<p>(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 Council¹.</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).		
Recital 34					
43	(34) The obligations under this Directive are without prejudice to Union law on procedural rights in criminal proceedings. In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are fully respected.	(34) The obligations under this Directive are without prejudice to Union law on procedural rights in criminal proceedings. In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are fully respected.	(34) The obligations under this Directive are without prejudice to Union law on procedural rights in criminal proceedings. In implementing this Directive, Member States should ensure that the procedural rights of suspected or accused persons in criminal proceedings are fully respected.		
Recital 35					
44	(35) Alternatives – please delete one option according to the IRL choice:	(35) Alternatives – please delete one option according to the IRL choice:	(35) Alternatives – please delete one option according to the IRL choice:		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.		
Recital 36, first subparagraph					
45	(36) [non-participation:] In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland	(36) [non-participation:] In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is	(36) [non-participation:] In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	is not taking part in the adoption of this Directive and is not bound by it or subject to its application. OR	not taking part in the adoption of this Directive and is not bound by it or subject to its application. OR	not taking part in the adoption of this Directive and is not bound by it or subject to its application. OR [non existent]		
Recital 36, second subparagraph					
46	[participation:] In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified [, by letter of ...] its wish to take part in the adoption and application of this Directive.	[participation:] In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified [, by letter of ...] its wish to take part in the adoption and application of this Directive.	<i>deleted</i>		
Recital 37					
47	(37) Directive 2005/35/EC of the European Parliament and of the Council ¹ was supplemented by Directive	(37) Directive 2005/35/EC of the European Parliament and of the Council ¹ was supplemented by Directive	(37) Directive 2005/35/EC of the European Parliament and of the Council ¹ was supplemented by Directive		

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	<p>2009/123/EC of the European Parliament and of the Council² with provisions on criminal offences and penalties for ship-source discharges of polluting substances. Such offences and penalties should fall within the scope of this Directive. Therefore, for Member States participating in this Directive, Directive 2009/123/EC should be replaced accordingly.</p> <p>1. 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).</p> <p>2. Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on</p>	<p>2009/123/EC of the European Parliament and of the Council² with provisions on criminal offences and penalties for ship-source discharges of polluting substances. Such offences and penalties should fall within the scope of this Directive. Therefore, for Member States participating in this Directive, Directive 2009/123/EC should be replaced accordingly.</p> <p>1. 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).</p> <p>2. Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on</p>	<p>2009/123/EC of the European Parliament and of the Council² with provisions on criminal offences and penalties for ship-source discharges of polluting substances. Such offences and penalties should fall within the scope of this Directive. Therefore, for Member States participating bound by in this Directive, Directive 2009/123/EC should be replaced. That replacement should be without prejudice to the obligation of those Member States with regard to the date for transposition of that Directive into national law accordingly. Accordingly, with regard to the Member States bound by this Directive, references to those provisions of Directive 2005/35/EC which were added or replaced by Directive 2009/123/EC should be construed as references to</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).	ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).	<p>this Directive. As regards Member States not bound by this Directive, they will remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.</p> <p>1. 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).</p> <p>2. Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).</p>		
Recital 38					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
48	(38) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is therefore not bound by it or subject to its application.	(38) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is therefore not bound by it or subject to its application.	(38) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Directive and is therefore not bound by it or subject to its application.		
Recital 39					
49	(39) Since the objectives of this Directive, namely to ensure common definitions of environmental criminal offences and the availability of effective, dissuasive and proportionate criminal sanctions for serious environmental offences, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt	(39) Since the objectives of this Directive, namely to ensure common definitions of environmental criminal offences and the availability of effective, dissuasive and proportionate criminal sanctions for serious environmental offences, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures, in accordance	(39) Since the objectives of this Directive, namely to ensure common definitions of environmental criminal offences and the availability of effective, dissuasive and proportionate criminal sanctions for serious environmental offences, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures, in accordance		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.	with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.	with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.		
Recital 40					
50	(40) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the protection of personal data, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial, the presumption of innocence and right of defence, the principles of legality and proportionality of criminal	(40) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the protection of personal data, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial, the presumption of innocence and right of defence, the principles of legality and proportionality of criminal offences and	(40) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the protection of personal data, the freedom of expression and information, the freedom to conduct a business, the right to an effective remedy and to a fair trial, the presumption of innocence and right of defence, the principles of legality and proportionality of criminal offences and		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	offences and penalties, and the right not to be tried or punished twice in criminal proceedings for the same offence. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly,	penalties, and the right not to be tried or punished twice in criminal proceedings for the same offence. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly,	penalties, and the right not to be tried or punished twice in criminal proceedings for the same offence. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly,		
Formula					
51	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:		
Article 1					
52	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	
Article 1, first paragraph					
53	This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in order to protect the environment more effectively.	This Directive establishes minimum rules concerning the definition of <u>environmental</u> criminal offences and sanctions, <u>as well as concerning the measures, means and</u>	This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in order to protect the environment more effectively.	EP supports the COM proposal: “This Directive establishes minimum rules concerning the definition of environmental criminal offences and sanctions as	The Presidency is a bit hesitant on using the words ‘environmental criminal offences’. Alternative suggestion for submission to the EP:

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>resources necessary to prevent and combat environmental crime and to properly enforce the Union's environmental law</u> , in order to protect the environment more effectively.		well as measures to prevent and combat environmental crimes and to effectively enforce the Union's environmental law".	'This Directive establishes minimum rules concerning the definition of environmental criminal offences and sanctions in order to protect the environment more effectively, as well as measures to prevent and combat environmental crimes and to effectively implement the Union's environmental law'.
		Article 2			
54	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	
54a			1. The terms used in this Directive for the purpose of defining the offences listed in Article 3(2) and (3) shall be construed, where applicable, in accordance with definitions provided in legal acts referred to in Article 3(1) points (a) or (b).	EP is still discussing consequences of the structure change	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 2, first paragraph					
55	For the purpose of this Directive, the following definitions apply:	For the purpose of this Directive, the following definitions apply:	2. For the purpose of this Directive, the following definitions apply:	see note row 54a	
Article 2, first paragraph, point (1)					
56	(1) ‘unlawful’ means a conduct infringing one of the following:	(1) ‘unlawful’ means a conduct infringing one of the following:	<i>deleted</i>	see note row 54a	
Article 2, first paragraph, point (1)(a)					
57	(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;	(a) Union legislation, law 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;	<i>deleted</i>	see note row 54a	
Article 2, first paragraph, point (1)(b)					
58				see note row 54a	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(b) a law, an administrative regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Union legislation referred to in point (a).	(b) a law, an administrative regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Union legislation <u>law</u> referred to in point (a).	<i>deleted</i>		
<i>Article 2, first paragraph, point (1), first paragraph</i>					
59	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 obtained fraudulently or by corruption, extortion or coercion, <u>or when such conduct breaches a condition of authorisation</u> ;	<i>deleted</i>	<p>EP open to a reformulation.</p> <p>Commission's proposal:</p> <p>“The conduct shall be deemed unlawful even if it is carried out under an authorisation by a competent authority in a Member State when the authorisation:</p> <p>a) was obtained fraudulently or by corruption, extortion or coercion [or - placeholder] or</p> <p>b) is in breach of relevant substantial legal requirements and the person who relies on the</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
				<p>authorisation knew or should have known this”.</p> <p>NB: this is based on EP and Council’s proposed amendments to recital 8, line 17; in letter (a) – from EP’s text in recital 8 plus article 2(1); in letter (b) – from Council’s text in recital 8. If there is agreement on this basis, it would replace lines 59 and 110b.</p> <p>As regards the placeholder in letter (a) above: “any other unlawful conduct” from Recital 17 proposed by EP, we would like to ask the EP team to clarify what should be covered by this addition what is not covered already by “fraudulently or by corruption, extortion or coercion” and for which reason and continue reflecting whether an addition is needed based on further explanation, if needed.]</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
see note row 54a					
59a		<u>(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;</u>		still to be discussed	
59b		<u>(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;</u>		still to be discussed	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
59c		<u>(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;</u>		still to be discussed.	
Article 2, first paragraph, point (2)					
60	(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 ¹ , 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 ² ;	(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 ¹ , 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 ² ; 1. Directive 2009/147/EC of the European	(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 Council¹, 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/EEC²; 1. Directive 2009/147/EC of the European	see note row 54a	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>1. 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).</p> <p>2. 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).</p>	<p>Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).</p> <p>2. 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).</p>	<p>Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).</p> <p>2. 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).</p>		
Article 2, first paragraph, point (3)					
61	<p>(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;</p>	<p>(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, <u>unless national law allows for public bodies exercising State authority to be included;</u></p>	<p>(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;</p>	<p>EP is open to clarify the possibility to extend the definition of 'legal person' to cover public bodies in recitals (see line 17c).</p>	<p>The Presidency considers that the proposal to address this issue in a recital could be accepted.</p> <p>Is the below wording in line 17c, as proposed by EP, acceptable?</p> <p><u>(8c) Legal persons should be understood as not including public international</u></p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
					<u>organisations, States or public bodies exercising State authority, unless national law allows for public bodies exercising State authority to be understood as included.</u>
Article 2, first paragraph, point (4)					
62	(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;	(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 <u>civil society organisations, including</u> non-governmental organisations, promoting the protection of the environment and meeting any proportionate requirements under national law shall be deemed to have an interest;	<i>deleted</i>	EP agrees to the COM proposal, so ready to drop “civil society organisations” in case the Council agrees to restore “or likely to be affected” in article 14 (CNL 15), line 200. see note row 54a	Maybe to be discussed along with Article 14, or are there any suggestions at this stage?
Article 2, first paragraph, point (5)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
63	<p>(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 Council¹.</p> <p>1. 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).</p>	<p>(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 Council¹.</p> <p>1. 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).</p>	<p>(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 Council¹.</p> <p>1. 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).</p>	<p>EP unsure about consequences of moving the definition to recitals. It needs further discussion as it is also linked to the general change in structure made by CNL.</p>	
63a		<p><u>(5a) 'environmental damage' means serious harm to any person's health, or substantial damage to the quality of air, the quality of soil or</u></p>		<p>EP keeps the definition, but open to a reformulation from the Commission.</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>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;</i></u>			
Article 3					
64	Article 3 Offences	Article 3 Offences	Article 3 Offences	Article 3 Offences	
Article 3					
64a			1. Member States shall ensure that the conducts referred to in paragraphs 2 and 3 constitute criminal offences when they are unlawful.	see note row 54a	
Article 3					
64b			For the purpose of this Directive the ‘unlawful’	see note row 54a	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			conduct shall mean a conduct infringing one of the following:		
64c			(a) Union law which aims to pursue one of the objectives of the Union's policy on the environment as set out in Article 191(1) TFEU;	see note row 54a	
64d			(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).	see note row 54a	
Article 3(1)					
65	1. Member States shall ensure that the following conduct constitutes a	1. Member States shall ensure that the following conduct constitutes a	±2. Member States shall ensure that the following conduct constitutes a	see note row 54a	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	criminal offence when it is unlawful and committed intentionally:	criminal offence when it is unlawful and committed intentionally:	criminal offence when it is unlawful and committed intentionally:		
Article 3(1), point (a)					
66	(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;	(a) the discharge, emission or introduction of a quantity of materials or substances, <u>energy</u> , or ionising radiation into air, soil or water which causes or is likely to cause death or serious injury <u>harm</u> to any person 's health or substantial damage to the quality of air, the quality of soil or the quality of water, or to <u>biodiversity, ecosystem services and functions</u> , animals or plants;	(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;	<p>Examples of “energy” in EU legal acts:</p> <ul style="list-style-type: none"> - Directive 2010/75/EU and the EU Marine Strategy Framework Directive (on the introduction of energy, including in the form of heat, noise or seismic vibrations into the water) - EU Environmental Noise Directive. (on noise pollution) - Euratom 2021/100 and EU2021/101 as well as Euratom No 302/2005 <p>EP wants to keep “harm” instead of “injury” as harm is a broader concept, covering also chronic diseases which is not so clear for injury.</p>	<p>EP has explained that ‘energy’ includes acoustic emissions, introduction of heat (‘thermal pollution’), noise and seismic vibrations. According to EP, energy can harm the sea and water environment. EP further explained that harm to biodiversity, ecosystem services and functions is not necessarily connected with soil or water quality. Nevertheless, protecting biodiversity etc is the aim of many environmental legislative acts.</p> <p>As a compromise the Presidency suggests to:</p> <p>1. accept the inclusion of ‘energy’ and ‘biodiversity, ecosystem services and functions’;</p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
				References to “biodiversity, ecosystem services and functions” necessary to ensure holistic approach.	2. invite EP to accept addressing ‘harm’ in a recital.
Article 3(1), point (b)					
67	(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;	(b) the placing on the market <u>or illegal trade, including online</u> , of a product, <u>the use of</u> which, in breach of a prohibition or another requirement, causes or is likely to cause death or serious <u>injury harm</u> to any person <u>'s health</u> or substantial damage to <u>the quality of air, the quality of soil or the air, water or soil quality of water</u> , or to <u>biodiversity, ecosystem services and functions, or</u> animals or plants as a result of the product's use on a larger scale;	(b) the placing on the market, in breach of a prohibition or another requirement aimed at protecting the environment , of a product, the use of which, in breach of a prohibition or another requirement results in 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 air, water or soil quality, or to animals or plants as a result of the product's use on a larger scale;	EP is ready to drop “illegal” and “online”, as long as “online” is clarified in recitals. EP would like to see COM assessment of the CNL changes. See note row 66	Presidency suggests accepting the suggestion to clarify ‘online’ in a recital.
Article 3(1), point (c)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
68	(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:	(c) the manufacture, placing <u>or making available on, import to and export from the Union</u> on the market, <u>including online</u> , or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:	(c) the manufacture, placing or making available on the market, import, export or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:	EP awaits LS input on “import/export/placing on the market” “online” to be clarified in recitals	
Article 3(1), point (c)(i)					
69	(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 ¹ ; or 1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and	(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 ¹ ; or 1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and	(i) this activity conduct is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ¹ ; or 1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, and	EP supports CNL language in lines 69-74	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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).	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).	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).		
Article 3(1), point (c)(ii)					
70	(ii) this activity is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or	(ii) this activity is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or	(ii) this activity conduct is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or	see note row 69	
Article 3(1), point (c)(iii)					
71				see note row 69	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council¹; or</p> <p>1. 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).</p>	<p>(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council¹; or</p> <p>1. 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).</p>	<p>(iii) this activity conduct is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council¹; or</p> <p>1. 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).</p>		
Article 3(1), point (c)(iv)					
72	<p>(iv) this activity is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council¹; or</p> <p>1. Regulation (EU) No 528/2012 of the</p>	<p>(iv) this activity is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council¹; or</p> <p>1. Regulation (EU) No 528/2012 of the</p>	<p>(iv) this activity conduct is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council¹; or</p> <p>1. Regulation (EU) No 528/2012 of the</p>	see note row 69	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	1. 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).	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).	1. 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).		
Article 3(1), point (c)(v)					
73	(v) this activity falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council ¹ ; or 1. 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	(v) this activity falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council ¹ ; or 1. 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	(v) this activity conduct falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council ¹ ; or 1. 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	see note row 69	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).	and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).	and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).		
Article 3(1), point (c)(vi)					
74	(vi) this activity is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council ¹ , 1. 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).	(vi) this activity is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council ¹ , 1. 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).	(vi) this activity conduct is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council ¹ , 1. 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).	see note row 69	
Article 3(1), point (c), first paragraph					
75	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	and it causes or is likely to cause death or serious injury harm to any person ^s health or substantial damage to the quality of air,	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	see note row 66	Please see suggestion in line 66.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	soil or the quality of water, or to animals or plants;	the quality of soil or the quality of water, or to <u>biodiversity, ecosystem services and functions</u> , animals or plants;	soil or the quality of water, or to animals or plants;		
75a		<u>(ca) any conduct in breach of the Regulation (EU) 2017/852 of the European Parliament and of the Council^{1a}</u> ; <u>1a. Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008 (OJ L 137, 24.5.2017, p. 1).</u>	(c)bis manufacture, use, storage, import or export of mercury, mercury compounds and mixtures of mercury and mercury-added products in breach of the requirements set out in Regulation (EU) 2017/852 of the European Parliament and of the Council 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;	EP supports CNL text	
Article 3(1), point (cb)					
75b					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<i><u>(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;</u></i>		EP keeps its position as it considers it is not enough to have only administrative sanctions	
Article 3(1), point (d)					
76	(d) the execution of projects referred to in Article 1(2)(a) of Directive	(d) the execution of projects referred to in Article 1(2)(a) of Directive	(d) for the project developer, as defined the execution of projects	EP supports the CNL text except:	Presidency suggests maintaining the Council position on 'project developer'.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>2011/92/EU of the European Parliament and of the Council¹ 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;</p> <p>1. 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).</p>	<p>2011/92/EU of the European Parliament and of the Council¹ 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;</p> <p>1. 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).</p>	<p>referred to in Article 4(2)(a) 1(2)(b) of Directive 2011/92/EU of the European Parliament and of the Council¹, the execution of projects referred to in Articles 1(2)(a) and 4(1) and (2) and listed in Annex I or II of that Directive , without a development consent without a development consent or an assessment with regard to their effects on the environment, and which causes or is likely to cause substantial damage to the factors defined in Article 3(1) of Directive 2011/92/EU quality of air, the quality of soil or the status of water, or to animals or plants;</p> <p>1. 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</p>	<p>- limiting it to “project developer” only; - horizontal issue (see row 66)</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			projects on the environment (OJ L 26, 28.1.2012, p. 1).		
Article 3(1), point (e)					
77	(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, <u>treatment</u> , 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, 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 such conduct:	<p>EP wants to replace “recovery and disposal” by “treatment”.</p> <p>EP agrees with CNL change.</p>	<p>Presidency suggests accepting that ‘recovery and disposal’ is replaced by ‘treatment’.</p> <p>See article 3.14 in Directive 2008/98: “treatment” means recovery or disposal operations, including preparation prior to recovery or disposal”</p>
Article 3(1), point (e)(i)					
78	(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council ¹ 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 ¹ 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 ¹ and is undertaken in when it concerns a non-negligible quantity;	EP agrees with CNL change.	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	1. 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).	1. 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).	1. 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).		
Article 3(1), point (e)(ii)					
79	(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;	(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or serious injury <u>harm</u> 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;	(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;	see note row 66	
Article 3(1), point (f)					
80	(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the	(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the	(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the	EP agrees with CNL change.	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>European Parliament and of the Council¹ 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;</p> <p>1. 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).</p>	<p>European Parliament and of the Council¹ 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;</p> <p>1. 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).</p>	<p>European Parliament and of the Council¹ when such shipment is undertaken in concerns a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;</p> <p>1. 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).</p>		
Article 3(1), point (g)					
81	<p>(g) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council¹, without complying with the requirements of Article 6(2), point (a) of that Regulation;</p>	<p>(g) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council¹, without complying with the requirements of Article 6(2), point (a) of that Regulation;</p>	<p>(g) for the owner, as defined in Article 3(1), point (14) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council¹, of a ship falling within the scope of that Regulation, the recycling of a ship without</p>	<p>EP supports the CNL text except:</p> <p>- limiting it to “owner” only;</p> <p>- horizontal issue (see row 66)</p>	<p>Presidency suggests maintaining the Council position as regards ‘owner’.</p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	1. 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).	1. 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).	<p>complying with the requirements of referred to in Article 6(2), point (a) of that Regulation, which impose recycling at ship recycling facilities which are included in the European List established under Article 16 of that Regulation;</p> <p>1. 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).</p>		
Article 3(1), point (h)					
82	(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and	(h) the ship-source discharges of polluting substances <u>as defined in Article 3(8) of Directive 2008/56/EC or</u> referred to in Article 4(1) of Directive	(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	EP still looking at COM new proposal	<p>COM proposed the below compromise.</p> <p>What do MS think of it?</p> <p>‘(h) the ship-source discharge of polluting</p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>of the Council¹ 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;</p> <p>1. 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</p>	<p>2005/35/EC of the European Parliament and of the Council¹ 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 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;</p> <p>1. Directive 2005/35/EC of the European Parliament and of the Council of 7 September</p>	<p>the Council¹ 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 from a ship falling within the scope of Article 3(2) of that Directive. The present paragraph shall not apply to the situations described in Article 5 of that Directive; this provision. The present paragraph shall not apply either to minor to individual cases, where the ship-source discharge act committed does not cause deterioration in the quality of water, unless the conjunction of repeated minor cases by the same offender in conjunction result, that do not individually do so, results in deterioration in the quality of water;</p>		<p>substances falling within the scope of Article 3 of Directive 2005/35/EC of the European Parliament and of the Council[1], into any of the areas referred in Article 3(1) of that Directive, provided that such ship-source discharge does not satisfy the exceptions set in Article 5 of that Directive, and which causes or is likely to cause deterioration in the quality of water or damage to the marine environment’.</p> <p>Explanations by COM:</p> <ul style="list-style-type: none"> - the purpose of this proposed compromise is the alignment with the definitions of other ECD offences (thresholds) and to improve enforceability: - all other offences which are damaged based cover not only the damage caused but also likely damage, thus we suggest adding “or is likely to cause” damage;

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	255, 30.9.2005, p. 11–21).	2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11–21).	1. 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).		<ul style="list-style-type: none"> - phrase this qualifier in positive terms (and which causes or is likely to cause...) and not negative terms (where [the act] does not cause deterioration ...), as this is used to define other offences which have a damage-based qualifier; - as the Ship Source Pollution Directive and the Marpol Convention protect the marine environment, not only the quality of water, we propose to keep both these elements as alternatives (as in the EP's proposal); - the co-legislators add in addition to the qualifiers 'except for minor cases', but in the Ship Source Pollution Directive, in the recitals, the minor cases are understood as discharges which do not cause damage (see recital 9 of Directive 2005/35/EC as amended by Directive 2009/123/EC).
Article 3(1), point (i)					
83					Please see suggestion in line 66.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>(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 Council¹, Directive 2010/75/EU of the European Parliament and of the Council² or Directive 2013/30/EU of the European Parliament and of the Council³ 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;</p> <p>1. 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</p>	<p>(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 Council¹, Directive 2010/75/EU of the European Parliament and of the Council² or Directive 2013/30/EU of the European Parliament and of the Council³ and which causes or is likely to cause death or serious injury^{harm} to any person³ 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;</p> <p>1. Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of</p>	<p>(i) the installation, operation or dismantling closure of an installation in which a dangerous activity is carried out or in which dangerous substances; preparations or pollutants or mixtures are stored or used, when such a conduct and such a dangerous activity, substance or mixture fall within the scope of falling within the scope of Directive 2012/18/EU of the European Parliament and of the Council²; Directive 2010/75/EU2012/18/EU of the European Parliament and of the Council²or¹ or of Directive 2013/30/EU2010/75/EU of the European Parliament and of the Council²and which², and when such a conduct 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; [If a</p>	<p>EP agrees with CNL text except the horizontal issue (see row 66).</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>substances, amending and subsequently repealing Council Directive 96/82/EC Text with EEA relevance (OJ L 197, 24.7.2012, p. 1–37).</p> <p>2. 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).</p> <p>3. 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).</p>	<p>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).</p> <p>2. 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).</p> <p>3. 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).</p>	<p>Directive amending Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste is adopted before this Directive, point (i) to be replaced with a criminal offence within the scope of that Directive.]</p> <p>1. 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).</p> <p>2. Directive 2010/75/EU of the European Parliament</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>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).</p> <p>3. 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).</p>		
83a			<p>(i)bis the construction, operation and dismantling of an installation, when such a conduct and such an installation fall within the scope of Directive 2013/30/EU of the European Parliament and of the Council¹, and when such a conduct causes or is likely to cause death or serious injury to any</p>	<p>EP agrees with CNL text except the horizontal issue (see row 66).</p>	<p>Please see suggestion in line 66.</p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;</p> <p>1. 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).</p>		
Article 3(1), point (j)					
84	<p>(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/Euratom¹, Council Directive 2014/87/Euratom² or Council Directive</p>	<p>(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/Euratom¹, Council Directive 2014/87/Euratom² or Council Directive 2013/51/Euratom³, which</p>	<p>(j) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling or substances, when such a conduct and such a material or substance fall within the scope of Council Directive 2013/59/Euratom¹; 2013/59/</p>	<p>EP expects assessment from LS. EP would also suggest that each institution prepares a short note explaining its position.</p> <p>See row 66</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>2013/51/Euratom³, 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;</p> <p>1. 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).</p> <p>2. Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a</p>	<p>causes or is likely to cause death or serious injury^{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;</p> <p>1. 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).</p> <p>2. Council Directive 2014/87/Euratom of 8 July 2014 amending Directive</p>	<p>Euratom¹ or Council Directive 2014/87/Euratom² or Council Directive 2013/51/Euratom³, which 2014/87/ Euratom², and when such a conduct 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;</p> <p>1. 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).</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).</p> <p>3. 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).</p>	<p>2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).</p> <p>3. 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).</p>	<p>2. 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).</p> <p>3. 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).</p>		
Article 3(1), point (k)					
85	(k) the abstraction of surface water or groundwater which causes or is likely to cause	(k) the abstraction of surface water or groundwater within the meaning of Directive	(k) the abstraction of surface water or groundwater within the meaning of Directive	(k) the abstraction of surface water or groundwater within the meaning of Directive 2000/60/EC ¹ which causes	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	substantial damage to the ecological status or potential of surface water bodies or to the quantitative status of groundwater bodies;	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;	2000/60/EC¹ 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; 1. 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).	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; 1. 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).	
Article 3(1), point (l)					
86	(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	(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	(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 or V (when species in Annex V are subject to the	EP supports CNL text. “Online” to be clarified in recitals.	Presidency suggests accepting the suggestion to clarify ‘online’ in a recital.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC¹ and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council², except for cases where the conduct concerns a negligible quantity of such specimens;</p> <p>1. 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).</p> <p>2. 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).</p>	<p>are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC¹ and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council², except for cases where the conduct concerns a negligible quantity of such specimens <u>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;</u></p> <p>1. 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).</p> <p>2. Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation</p>	<p>same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC¹ and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council², except for cases where the conduct concerns a negligible quantity of such specimens;</p> <p>1. 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).</p> <p>2. 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).</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		of wild birds (OJ L 20, 26.1.2010, p. 7–25).			
Article 3(1), point (m)					
87	<p>(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 338/97¹, except for cases where the conduct concerns a negligible quantity of such specimens;</p> <p>1. 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>	<p>(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 338/97¹, <u>and imports of specimens of such species, parts or derivatives thereof listed in Annex C of that Regulation</u> except for cases where the conduct concerns a negligible quantity of such specimens;</p> <p>1. 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>	<p>(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 338/97¹, except for cases where the conduct concerns a negligible quantity of such specimens;</p> <p>1. 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>	<p>EP supports restoring “negligible quantity”, though keeps its position on including Annex C.</p> <p>Annex C of the Wildlife Trade Regulations (Council Regulation [EC] No 338/97) corresponds to CITES Appendix III, which concerns species protected in at least one country that has asked other CITES Parties for assistance in controlling the trade. Annex C covers a range of species with a high conservation value and which can also be highly threatened, in particular rare endemic species. They deserve the same level of protection as the species covered under the two other Annexes, at least with regard to imports that are not carried out in</p>	<p>Presidency suggests accepting the EP proposal, which means including a reference to Annex C while keeping ‘negligible quantity’.</p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
				accordance with the Wildlife Trade Regulations. The EU should support countries that are trying to protect their native fauna and flora, and this would align with the EU's efforts to strive for the highest level of enforcement of CITES standards.	
Article 3(1), point (n)					
88	(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 ¹ , 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	(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 <u>and the export from the Union, including through online means, of relevant commodities or relevant products</u> , falling within the scope of Regulation (EU) No 995/2010,... of the European Parliament and of the Council ¹ , except for cases where the conduct concerns a negligible quantity; [If a Regulation on the ^{*,} <u>where the</u>	(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 derived from such timber, in breach of the prohibitions and obligations set out in Article 4(1) of Regulation (EU) No 995/2010 of the European Parliament and of the Council ¹ , except for cases where the conduct concerns a negligible quantity; <u>[If a Regulation on the making available on the Union market as well</u>	EP supports new COM proposal: “(n) the placing or making available on the Union market or the export from the Union market of certain commodities and products associated with deforestation and forest degradation in breach of the prohibition set out in Article 3 of Regulation (XXX), except for cases where the conduct concerns a negligible quantity”.	Article 3 of the Deforestation Regulation prohibits the placing on the market of products unless (a) they are deforestation-free; (b) they have been produced in accordance with the relevant legislation of the country of production; and (c) they are covered by a due diligence statement. The Due Diligence Statement is the core of the deforestation Regulation. An operator shall not place relevant products on the market or export them without prior submission of a due diligence statement.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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.]</p> <p>1. 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).</p>	<p><u>conditions referred to in Article 3 of that Regulation for such placing or</u> making available on the Union market as well as, or such 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.], are not met, except for cases where the conduct concerns a negligible quantity;</p> <p>1. 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</p>	<p><i>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.]</i> 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.]</p> <p>1. Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20</p>		<p>Based on the above the Presidency suggests accepting the EP and COM proposal.</p>

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p>(OJ L 295, 12.11.2010, p. 23–34).</p> <p>*. <u>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 ...).</u></p> <p>±. <u>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.</u></p>	<p>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).</p>		
Article 3(1), point (o)					
89					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>(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>	<p>(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of <u>special area of conservation as referred to in</u> Article 6(2) of the Directive 92/43/EEC, <u>or of a habitat of a species in accordance with Regulation (EU) .../... of the European Parliament and of the Council^{*,+}</u>, when this deterioration is significant;</p> <p><u>*. Regulation (EU) .../... of the European Parliament and of the Council of ... on nature restoration (OJ ...).</u></p> <p><u>+ 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.</u></p>	<p>(o) any conduct which causes the deterioration of a habitat, or the disturbance of animal species listed in Annex II (a) of Council Directive 92/43/EEC¹, within a protected site, within the meaning of Article 6(2) of the that Directive 92/43/EEC, when this deterioration or disturbance is significant. 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 Council³ or any natural habitat or habitat of species for which a site is designated as a special area of conservation in accordance with Article 4(4) of Council Directive 92/43/EEC or for which a site is listed as site of Community importance in accordance with Article</p>	<p>EP supports CNL text</p>	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>4(2) of Council Directive 92/43/EEC;</p> <p>1. 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).</p> <p>3. 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).</p>		
Article 3(1), point (p)					
90	(p) introduction or spread of invasive alien species of Union concern when:	(p) introduction or spread of invasive alien species of Union concern when:	(p) introduction bringing into the territory of the Union, placing on the market, keeping, breeding, transport, use, exchange, permitting to reproduce, grow or cultivate, releasing into the environment, or spread	(p) bringing into the territory of the Union, placing on the market, keeping, breeding, transport, use, exchange, permitting to reproduce, grow or cultivate, releasing into the environment, or spread of invasive alien	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			of invasive alien species of Union concern when:	species of Union concern when:	
Article 3(1), point (p)(i)					
91	<p>(i) the conduct breaches restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council¹;</p> <p>1. 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).</p>	<p>(i) the conduct breaches restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council¹;</p> <p>1. 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).</p>	<p>(i) the conduct breaches restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council¹ 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;</p> <p>1. 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).</p>	EP supports COM original proposal	Presidency suggests maintaining the Council GA.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 3(1), point (p)(ii)Presidecny					
92	(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 serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, <u>biodiversity, ecosystem services and functions</u> , 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 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;	see note row 66	
Article 3(1), point (q)					
93	(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 ¹ or of products and	(q) production, placing on the market, <u>including online</u> , 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	(q) production, placing on the market, import, export; use, emission or release or use of ozone depleting substances as defined in Article 3 (4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council ¹ or production ,	EP supports CNL text in principle, however: - “online” needs to be clarified in recitals, - LS to look at import/export/placing on the market	Presidency suggests clarifying ‘online’ in a recital.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>equipment containing or relying on such substances;</p> <p>1. 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)</p>	<p>Council¹ or of products and equipment containing or relying on such substances;</p> <p>1. 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)</p>	<p>placing on the market, import or export of products and equipment containing or relying on such substances; [If a Regulation on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009 is adopted before this Directive, point (q) to be replaced with a criminal offence within the scope of that Regulation.]</p> <p>1. 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).</p>		
Article 3(1), point (r)					
94	(r) production, placing on the market, import, export,	(r) production, placing on the market, import, export,	(r) production , placing on the market, import, export ,	EP supports CNL text	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>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 Council¹ or of products and equipment containing or relying on such gases.</p> <p>1. 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).</p>	<p>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 Council¹ or of products and equipment containing or relying on such gases.</p> <p>1. 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).</p>	<p>use, emission use or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council¹ or placing on the market or import of products and equipment containing or relying on such gases. [If a Regulation on fluorinated greenhouse gases amending Directive 2019/1937 and repealing Regulation 517/2014 is adopted before this Directive, point (r) to be replaced with a criminal offence within the scope of that Regulation.]</p> <p>1. 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</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			150, 20.5.2014, p. 195–230).		
94a		<p><u>(ra) a serious infringement within the meaning of Article 90(1) of Council Regulation (EC) No 1224/2009^{1a} and Article 42 of Council Regulation (EC) No 1005/2008^{1b};</u></p> <p><u>1a. 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</u></p>		EP ready to show flexibility, more precision in recitals needed	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<p><u>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).</u></p> <p><u>Ib. 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).</u></p>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
94b		<u><i>(rb) any conduct that causes a forest fire or a significant deterioration of more than one hectare of forest;</i></u>		EP invites COM to work on a reformulation of the text	
Article 3(1a)					
94c		<u><i>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</i></u>		To be discussed at political level.	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>particular gravity and sanctioned as such in accordance with the legal systems of the Member States.</i></u>			
Article 3(2)					
95	2. Member States shall ensure that the conduct referred to in paragraph 1, points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r) also constitutes a criminal offence, when committed with at least serious negligence.	2. Member States shall ensure that the conduct referred to in paragraph 1; points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r) <u>or paragraph 1a</u> also constitutes a criminal offence, when committed with at least serious negligence.	23. Member States shall ensure that the conduct referred to in paragraph 12, points (a), (b), (c), (d) (c)bis, (e), (f), (h), (i), (i)bis, (j), (k), (l), (m), (n), (p) (ii) (o)- (q), (r) also constitutes a criminal offence, when committed with at least serious negligence.	EP would like to keep its position but ready to discuss specific letters.	Presidency suggests maintaining Council GA.
Article 3(3), first subparagraph, introductory part					
96	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	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	34. 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	More discussion is needed on the CNL approach and enumeration of points, but EP flexible on adding "one or more elements".	Presidency suggests maintaining Council GA.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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):	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):	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) In order to assess whether the damage or likely damage is substantial within the meaning of paragraph 2 , points (a) to (d), (e) (ii), (i), (i)bis, (j), (k) and (p) (i) and (ii), one or more of the following elements shall be taken into account, where relevant:		
Article 3(3), first subparagraph, point (a)					
97	(a) the baseline condition of the affected environment;	(a) the baseline condition of the affected environment;	(a) the baseline condition of the affected environment;	(a) the baseline condition of the affected environment;	
Article 3(3), first subparagraph, point (b)					
98	(b) whether the damage is long-lasting, medium term or short term;	(b) whether the damage is long-lasting, medium term or short term;	(b) whether the damage is long-lasting, medium term or short term;	(b) whether the damage is long-lasting, medium term or short term;	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 3(3), first subparagraph, point (c)					
99	(c) severity of the damage;	(c) severity of the damage;	<i>deleted</i>	EP ok to delete	
Article 3(3), first subparagraph, point (d)					
100	(d) spread of the damage;	(d) spread of the damage, <u>including any potential cross-border nature</u> ;	(d) (c) spread of the damage;	EP ready to accept COM/CNL approach	
Article 3(3), first subparagraph, point (e)					
101	(e) reversibility of the damage.	(e) reversibility of the damage.	(e) (d) reversibility of the damage.	(e) reversibility of the damage.	
Article 3(3), first subparagraph, point (ea)					
101a		<u>(ea) any financial benefits derived from the damage caused by the perpetrators</u> ;		EP awaits assessment of LS	
Article 3(3), first subparagraph, point (eb)					
101b		<u>(eb) the duration of the infringement or non-compliance</u> ;		see note row 101a	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 3(3), first subparagraph, point (ec)					
101c		<u><i>(ec) the conservation status of the species, populations or habitats, ecosystems and natural resources affected;</i></u>		see note row 101a	
Article 3(3), first subparagraph, point (ed)					
101d		<u><i>(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.</i></u>		see note row 101a	
Article 3(3), subparagraph 1 a					
101e		<i>Member States shall ensure that their national legislation specifies that the offences listed in</i>		EP ready to drop the amendment, if qualifiers are added to all relevant offences.	Presidency suggests to accept this.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<i>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.</i>			(This article concerns the new offences which must be discussed separately).
Article 3(4)					
102	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	4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, <u>where relevant</u> , 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 <u>biodiversity, ecosystem services and functions</u> , animals or plants for the purposes of the investigation, prosecution	45. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing In order to assess 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	see note row 96	Please see line 96.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	paragraph 1, points (a) to (e), (i), (j), (k) and (p):	and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p) <u>paragraphs 1</u> :	offences referred to in within the meaning of paragraph 1 2, points (a) to (d), (e) (ii) (e), (i), (i)bis , (j), (k) and (p) (i) and (ii), one or more of the following elements shall be taken into account, where relevant:		
Article 3(4), point (a)					
103	(a) the conduct relates to an activity which is considered as risky or dangerous, requires an authorisation which was not obtained or complied with;	(a) the conduct relates to an activity which is considered as risky or dangerous, requires an authorisation which was not obtained, <u>updated</u> or complied with;	(a) the conduct relates to an activity which is considered as risky or dangerous for the environment or human health, and requires an authorisation which was not obtained or complied with;	EP accepts the CNL change. “Updated” to be moved to recitals.	Presidency suggests to accept this suggestion.
Article 3(4), point (b)					
104	(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;	(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;	(b) the extent to which the values, parameters or limits set out in one of the acts listed under paragraph 1, points (a) or (b), legal acts or in an authorisation issued	see note row 54a	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			for the activity are exceeded;		
Article 3(4), point (c)					
105	(c) whether the material or substance is classified as dangerous, hazardous or otherwise listed as harmful to the environment or human health.	(c) whether the material or substance is classified as dangerous, hazardous or otherwise listed as harmful to the environment or human health.	(c) whether the material or substance is classified as dangerous, hazardous or otherwise listed as harmful to the environment or human health.	(c) whether the material or substance is classified as dangerous, hazardous or otherwise listed as harmful to the environment or human health.	
Article 3(5), first subparagraph, introductory part					
106	5. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the quantity is negligible or non-negligible for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (e), (f), (l), (m), (n):	5. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing whether the 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):	56. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing In order to assess whether the quantity is negligible or non-negligible for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1 within the meaning of paragraph 2 , points (e) (i) , (f), (l), (m), (n), one or more of the	see note row 96	Please see line 96.

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			following elements shall be taken into account, where relevant:		
Article 3(5), first subparagraph, point (a)					
107	(a) the number of items subject to the offence;	(a) the number of items subject to the offence;	(a) the number of items subject to the offence;	(a) the number of items subject to the offence;	
Article 3(5), first subparagraph, point (b)					
108	(b) the extent to which the regulatory threshold, value or another mandatory parameter is exceeded;	(b) the extent to which the regulatory threshold, <u>including a hazardousness and toxicity threshold</u> , value or another mandatory parameter is exceeded;	(b) the extent to which the a regulatory threshold, value or another mandatory parameter foreseen in one of the acts listed under paragraph 1, points (a) or (b) , is exceeded;	see note row 54a EP amendment to be moved to recitals.	Presidency suggests accepting to address this in a recital.
Article 3(5), first subparagraph, point (c)					
109	(c) the conservation status of the fauna or flora species concerned;	(c) the conservation status of the <u>relevant populations of the</u> fauna or flora species concerned;	(c) the conservation status of the fauna or flora species concerned;	EP agrees with COM/CNL approach.	
Article 3(5), first subparagraph, point (d)					
110					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(d) the cost of restoration of environmental damage.	(d) the cost of restoration of environmental damage, <u>taking into account the value of the ecosystem service supplied.</u>	(d) the cost of restoration of environmental damage, when quantifiable.	EP agrees with the proposal made by COM in the meeting: “when feasible to assess”.	Presidency suggests accepting that ‘when quantifiable’ is replaced by ‘when feasible to assess’.
Article 3(5), subparagraph 1a					
110a		<u>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.</u>		see note row 101e	
Article 3(5a)					
110b		<u>5a. Member States shall ensure that from the moment a conduct becomes unlawful, the</u>		Linked to the discussion on “unlawful” See line 59	

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>perpetrator cannot invoke the issuance of an authorisation in order to avoid criminal liability.</i></u>			
Article 4					
111	Article 4 Inciting, aiding and abetting and attempt	Article 4 Inciting, aiding and abetting and attempt	Article 4 Inciting, aiding and abetting and attempt	Article 4 Inciting, aiding and abetting and attempt	
Article 4(1)					
112	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) <u><i>and (1a)</i></u> 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) 3(2) are punishable as criminal offences.	EP agrees with “committed intentionally” but references to be discussed later.	
Article 4(2)					
113	2. Member States shall take the necessary measures to ensure that an attempt to commit any of	2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal	2. Member States shall take the necessary measures to ensure that an attempt to commit intentionally any	EP ready to accept “intentionally” and to restore enumeration of letters, but content to be	Could it be acceptable to include a reference to subpoint d) (Directive 2011/92/EU)?

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	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. <u>where relevant.</u>	of the criminal offences referred to in Article 3 (1) (2) points (a), (b), (c), (d) (c)bis, (e), (f), (h), (i), (i)bis, (j), (k), (m), (n), (p) (i) and (ii), (q), (r) when committed intentionally is punishable as a criminal offence.	discussed (in favour of restoring letter d). EP ok to delete “where relevant”	In some MS it is unlawful to initiate a project without a consent but in other MS the ‘unlawfulness’ occurs at a later stage.
Article 5					
114	Article 5 Penalties for natural persons	Article 5 Penalties for natural persons	Article 5 Penalties for natural persons		
Article 5(1)					
115	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.	1. Member States shall take the necessary <u>and appropriate</u> measures, <u>including having effective procedures in place</u> , to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.	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.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 5(2)					
116	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.	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 <u>harm</u> to any person's <u>health</u> .	2. Member States shall take the necessary measures to ensure that offences referred to in Article 3 3(2) points (a), (b), (c), (c)bis, (e), (i), (i)bis, (j), and (p) 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.		
116a			3. Member States shall take the necessary measures to ensure that offences referred to in Article 3(3), in so far as it refers to Article 3(2) points (a), (b), (c), (c)bis, (e), (i), (i)bis and (j), are punishable by a maximum term of imprisonment of at least five years if they cause death to any person.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 5(3)					
117	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. 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.	34. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) 3(2) points (a) to (j), (n), (q), and (r) are punishable by a maximum term of imprisonment of at least six five years.		
Article 5(4)					
118	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. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) points <u>(ca), (cb)</u> , (k), (l), (m), (o), (p), <u>(ra), (rb) and in Article 3(1a)</u> are punishable by a maximum term of imprisonment of at least four years.	45. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) 3(2) points (k), (l), (m), (o), and (p) are punishable by a maximum term of imprisonment of at least four three years.		
118a		<u>4a. Member States shall take the necessary measures to develop</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>measures other than imprisonment in order to contribute to the restoration of the environment.</u>			
Article 5(5)					
119	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:	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:	56. 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 criminal or non-criminal sanctions or measures which shall may include:		
Article 5(5), point (a)					
120	(a) obligation to reinstate the environment within a given time period;	(a) obligation to reinstate the environment within a given time period, <u>or to compensate for the damage caused, if the perpetrator is not in a capacity to carry out such a reinstatement or</u>	(a) obligation to reinstate the environment within a given time period, provided that the damage is reversible, or, where the damage is irreversible, the obligation to compensate		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>if the damage is irreversible;</u>	costs linked to the damage to the environment;		
Article 5(5), point (b)					
121	(b) fines;	(b) fines, <u>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;</u>	(b) fines;		
Article 5(5), point (c)					
122	(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, <u>concessions and licences</u> and concessions;	(c) temporary or permanent exclusions from access to public funding, including tender procedures, grants and concessions;		
Article 5(5), point (d)					
123	(d) disqualification from directing establishments of the type used for committing the offence;	(d) disqualification from directing establishments <u>exercising a leading position within a legal person</u> of the type	(d) disqualification from directing establishments of the type used for committing the offence;		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		used for committing the offence;			
Article 5(5), point (e)					
124	(e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;		
Article 5(5), point (f)					
125	(f) temporary bans on running for elected or public office;	(f) temporary bans on running for elected or public office;	<i>deleted</i>		
Article 5(5), point (g)					
126	(g) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.	(g) national or Union-wide publication of the judicial decision relating to the conviction or any sanctions or measures applied.	<i>deleted</i>		
126a					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>(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.</i></u>			
Article 6					
127	Article 6 Liability of legal persons	Article 6 Liability of legal persons	Article 6 Liability of legal persons		
Article 6(1)					
128	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 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 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:		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 6(1), point (a)					
129	(a) a power of representation of the legal person;	(a) a power of representation of the legal person <u>and/or</u> ;	(a) a power of representation of the legal person;		
Article 6(1), point (b)					
130	(b) an authority to take decisions on behalf of the legal person;	(b) an authority to take decisions on behalf of the legal person <u>and/or</u> ;	(b) an authority to take decisions on behalf of the legal person;		
Article 6(1), point (c)					
131	(c) an authority to exercise control within the legal person.	(c) an authority to exercise control within the legal person.	(c) an authority to exercise control within the legal person.		
131a		<u><i>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</i></u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>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.</i></u>			
Article 6(2)					
132	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 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 and 4 for the benefit of the legal person by a person under its authority.		
Article 6(3)					
133	3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings	3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural	3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	persons, <u>including corporate board members</u> , who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.		
Article 7					
134	Article 7 Sanctions for legal persons	Article 7 Sanctions for legal persons	Article 7 Sanctions for legal persons		
Article 7(1)					
135	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) <u>or (2)</u> is punishable by effective, proportionate and dissuasive sanctions <u>and measures. The level of sanctions shall be proportionate and adapted to reflect the degree of severity and duration of the damage caused.</u>	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 criminal or non-criminal sanctions or measures.		
Article 7(2)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
136	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:	2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons <i>held</i> liable pursuant to Article 6(1) for the offences referred to in Articles 3 and 4 shall include:	2. Member States shall take the necessary measures to ensure that sanctions or measures for legal persons liable pursuant to Article 6(1) or (2) for the offences referred to in Articles 3 and 4 shall include criminal or non-criminal fines and may include other criminal or non criminal sanctions or measures, such as:		
Article 7(2), point (a)					
137	(a) criminal or non-criminal fines;	(a) criminal or non-criminal fines, <i>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;</i>	<i>deleted</i>		
Article 7(2), point (b)					
138					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(b) the obligation to reinstate the environment within a given period;	(b) the obligation to reinstate the environment within a given period, <u>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</u> ;	(b) (a) the obligation to reinstate the environment within a given period, provided that the damage is reversible, or, where the damage is irreversible, the obligation to compensate costs linked to the damage to the environment ;		
Article 7(2), point (c)					
139	(c) exclusion from entitlement to public benefits or aid;	(c) exclusion from entitlement to public benefits or aid;	(e) (b) exclusion from entitlement to public benefits or aid;		
Article 7(2), point (d)					
140	(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, <u>concessions and licences</u> and concessions ;	(d) (c) temporary exclusion from access to public funding, including tender procedures, grants and concessions;		
Article 7(2), point (e)					
141	(e) temporary or permanent disqualification	(e) temporary or permanent disqualification from the	(e) (d) temporary or permanent disqualification		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	from the practice of business activities;	practice of business activities;	from the practice of business activities;		
Article 7(2), point (f)					
142	(f) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(f) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;	(f) (e) withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;		
Article 7(2), point (g)					
143	(g) placing under judicial supervision;	(g) placing under judicial supervision;	(g) (f) placing under judicial supervision;		
Article 7(2), point (h)					
144	(h) judicial winding-up;	(h) judicial winding-up;	(h) (g) judicial winding-up;		
Article 7(2), point (i)					
145	(i) temporary or permanent closure of establishments used for committing the offence;	(i) temporary or permanent closure of establishments used for committing the offence;	(i) (h) temporary or permanent closure of establishments used for committing the offence;		
Article 7(2), point (j)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
146	(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;	<i>deleted</i>		
Article 7(2), point (k)					
147	(k) publication of the judicial decision relating to the conviction or any sanctions or measures applied.	(k) <u><i>national or Union-wide</i></u> publication of the judicial decision relating to the conviction or any sanctions or measures applied, <u><i>including by referring them to relevant Union institutions.</i></u>	(k) (i) publication of the judicial decision relating to the conviction or any all or part of the decision imposing the sanctions or measures applied.		
Article 7(3)					
148	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.	<i>deleted</i>	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
148a			<p>3. Member States shall take the necessary measures to ensure that, at least for legal persons held liable pursuant to Article 6(1), offences referred to in Article 3(2) are punishable by criminal or non-criminal fines, the amount of which shall be proportionate to the seriousness of the conduct and to the individual, financial and other circumstances of the legal person concerned. Member States shall take the necessary measures to ensure that the maximum level of the fines is not less than:</p>		
148b			<p>(a) 5% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			<p>offence was committed, or in the business year preceding the fining decision, for offences referred to in Article 3(2) points (a) to (j), (n), (q), and (r), and 3% of the total worldwide turnover of the legal person, either in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision, for offences referred to in Article 3(2) points (k), (l), (m), (o), and (p);</p>		
148c			<p>or, alternatively</p>		
148d			<p>(b) an amount corresponding to EUR 40 million for offences referred to in Article 3(2) points (a) to (j), (n), (q),</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			and (r), and EUR 24 million for offences referred to in Article 3(2) points (k), (l), (m), (o), and (p).		
148e			When providing for fines pursuant to Article 7(3) point (a), Member States may provide for rules for cases where it is not possible to determine the amount of the fine on the basis of the total worldwide turnover of the legal person in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision.		
Article 7(4)					
149	4. Member States shall take the necessary measures to ensure that	4. Member States shall take the necessary measures to ensure that offences	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	referred to in Article 3(1) points (a) to (j), (n), (q), (r) are punishable by <u>proportionate</u> fines, the maximum limit of which shall be not less than 5% <u>10%</u> of the total <u>average</u> worldwide turnover of the legal person f/undertaking] in the <u>three</u> business year <u>years</u> preceding the fining decision.			
<i>Article 7(5)</i>					
150	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.	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 <u>proportionate</u> fines, the maximum limit of which shall be not less than 3% <u>10%</u> of the total <u>average</u> worldwide turnover of the legal person f/undertaking] in the <u>three</u> business year <u>years</u> preceding the fining decision.	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
<i>Article 7(6)</i>					
151	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.	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.	<i>deleted</i>		
<i>Article 8</i>					
152	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances		
<i>Article 8, first paragraph</i>					
153	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	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	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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	referred to in Articles 3 and 4, the following circumstances may be regarded as aggravating circumstances:	referred to in Articles 3 and 4, the following circumstances may be regarded as aggravating circumstances:	referred to in Articles 3 and 4, one or several of the following circumstances may, in accordance with the relevant provisions of national law , be regarded as aggravating circumstances:		
Article 8, first paragraph, point (a)					
154	(a) the offence caused the death of, or serious injury to, a person;	(a) the offence caused the death of, or serious injury to, aharm to any person's health ;	<i>deleted</i>		
Article 8, first paragraph, point (b)					
155	(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 protected species referred to in Article 3(1) points (l) and (m) ;	(b) (a) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem as defined in Article 2(13) of Regulation (EU) 2020/852¹ ; 1. Regulation (EU) 2020/852 of the European Parliament and of the Council of 18		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13–43).		
Article 8, first paragraph, point (c)					
156	<p>(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.</p>	<p>(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹ <u>or involved corruption, money laundering, fraud, extortion, coercion or other forms of intimidation</u>;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.</p>	<p>(c)(b) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA¹;</p> <p>1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 8, first paragraph, point (d)					
157	(d) the offence involved the use of false or forged documents;	(d) the offence involved the use of false or forged documents, <i>or breached a condition of authorisation</i> ;	(d) (c) the offence involved the use of false or forged documents by the offender ;		
Article 8, first paragraph, point (e)					
158	(e) the offence was committed by a public official when performing his/her duties;	(e) the offence was committed by a public official when performing his/her duties;	(e) (d) the offence was committed by a public official when performing his/her duties;		
Article 8, first paragraph, point (f)					
159	(f) the offender committed similar previous infringements of environmental law;	(f) the offender committed similar previous infringements of environmental law;	(f) (e) the offender committed similar previous infringements of environmental law ; has previously been definitively convicted of offences of the same nature under Article 3 or 4		
Article 8, first paragraph, point (g)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
160	(g) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;	(g) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly;	<i>deleted</i>		
<i>Article 8, first paragraph, point (h)</i>					
161	<p>(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/EC¹;</p> <p>1. 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).</p>	<p>(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/EC¹;</p> <p>1. 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).</p>	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
<i>Article 8, first paragraph, point (i)</i>					
162	(i) the offender does not provide assistance to inspection and other enforcement authorities when legally required;	(i) the offender does not provide assistance to inspection and other enforcement authorities when legally required;	<i>deleted</i>		
<i>Article 8, first paragraph, point (j)</i>					
163	(j) the offender actively obstructs inspection, custom controls or investigation activities, or intimidates or interferes with witnesses or complainants.	(j) the offender actively obstructs inspection, custom controls or investigation activities, <u><i>destroys evidence</i></u> , or intimidates or interferes with witnesses or complainants;	<i>deleted</i>		
163a		<u><i>(ja) the offence was committed within a protected area.</i></u>			
<i>Article 9</i>					
164					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Article 9 Mitigating circumstances	Article 9 Mitigating circumstances	Article 9 Mitigating circumstances		
Article 9, first paragraph					
165	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:	Member States shall take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, one or several of the following circumstances may, in accordance with the relevant provisions of national law , be regarded as mitigating circumstances:		
Article 9, first paragraph, point (a)					
166	(a) the offender restores nature to its previous condition;	(a) the offender restores nature to its previous condition <u>before the start of a criminal investigation</u> ;	(a) the offender restores nature to its previous condition, when this is not an obligation under Directive 2004/35/EC¹ ; 1. Directive 2004/35/CE of the European Parliament and of the Council of 21 April		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56–75).		
166a		<u>(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;</u>			
Article 9, first paragraph, point (b)					
167	(b) the offender provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:	(b) the offender provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:	(b) the offender provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:		
Article 9, first paragraph, point (b)(i)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
168	(i) identify or bring to justice the other offenders;	(i) identify or bring to justice the other offenders;	(i) identify or bring to justice the other offenders;		
Article 9, first paragraph, point (b)(ii)					
169	(ii) find evidence.	(ii) find evidence.	(ii) find evidence.		
169a		<u>Article 9a Precautionary measures</u>			
169b		<u>1. 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.</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 10					
170	Article 10 Freezing and confiscation	Article 10 Freezing and confiscation	Article 10 Freezing and confiscation		
Article 10, first paragraph					
171	<p>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 Council¹, 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.</p> <p>1. Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014</p>	<p>Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may <u>trace, identify,</u> freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council¹, <u>all</u> 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. <u>Member States shall take the necessary measures to ensure that frozen and confiscated proceeds and instrumentalities are appropriately managed, in</u></p>	<p>Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with enable the freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 3 and 4. Member States bound by Directive 2014/42/EU of the European Parliament and of the Council¹, 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 shall do so in</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).	<p><u><i>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.</i></u></p> <p>1. 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).</p>	<p>accordance with that Directive.</p> <p>1. 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).</p>		
Article 11					
172	Article 11 Limitation periods for criminal offences	Article 11 Limitation periods for criminal offences	Article 11 Limitation periods for criminal offences		
Article 11(1)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
173	1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission of those criminal offences, in order for those criminal offences to be tackled effectively.	1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication of criminal offences referred to in Articles 3 and 4 for a sufficient period of time after the commission <u>discovery</u> of those criminal offences, in order for those criminal offences to be tackled effectively.	1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial adjudication decision 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.		
Article 11(2)					
174	2. Member State shall the take necessary measures to enable the investigation, prosecution, trial and judicial decision:	2. Member State <u>States</u> shall the take <u>take the</u> necessary measures to enable the investigation, prosecution, trial and judicial decision:	2. Member State shall take the take necessary measures to enable the investigation, prosecution, trial and judicial decision:		
Article 11(2), point (a)					
175					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(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;	(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 <u>discovered</u> , when offences are punishable;	(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 ;		
Article 11(2), point (b)					
176	(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;	(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 <u>discovered</u> , when offences are punishable;	(b) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least six-five years of imprisonment, for a period of at least six-five years from the time when the offence was committed, when offences are punishable ;		
Article 11(2), point (c)					
177	(c) of offences referred to in Articles 3 and 4 which	(c) of offences referred to in Articles 3 and 4 which	(c) of offences referred to in Articles 3 and 4 which		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	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 <i>discovered</i> , when offences are punishable.	are punishable by a maximum sanction of at least four <i>three</i> years of imprisonment, for a period of at least four <i>three</i> years from the time when the offence was committed; when offences are punishable.		
Article 11(3)					
178	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.	<i>deleted</i>	<i>deleted</i>		
Article 11(4), first subparagraph					
179	4. Member States shall take the necessary measures to enable the enforcement of:	4. Member States shall take the necessary measures to enable the enforcement of:	43. Member States shall take the necessary measures to enable the enforcement of:		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 11(4), first subparagraph, point (a)					
180	(a) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least ten years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least ten years from the date of the final conviction;	(a) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least ten years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least ten years from the date of the final conviction;	(a) (i) a penalty of more than five years of imprisonment; or alternatively (ii) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least ten years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least ten years from the date of the final conviction;		
Article 11(4), first subparagraph, point (b)					
181	(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least six years of imprisonment, imposed following a final conviction for a criminal offence referred to in	(b) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least six years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and	(b) (i) a penalty of more than one year of imprisonment; or alternatively (ii) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Articles 3 and 4, for at least six years from the date of the final conviction;	4, for at least six years from the date of the final conviction;	sanction of at least six five years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least six five years from the date of the final conviction; and		
Article 11(4), first subparagraph, point (c)					
182	(c) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least four years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least four years from the date of the final conviction.	(c) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least four years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least four years from the date of the final conviction.	(c) (i) a penalty of up to one year of imprisonment; or alternatively (ii) a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least four three years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least four three years from the date of the final conviction.		
Article 11(4), second subparagraph					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
183	These periods may include extensions of the limitation period arising from interruption or suspension.	These periods may include extensions of the limitation period arising from interruption or suspension.	<i>deleted</i>		
183a			4. By way of derogation from paragraphs 2 and 3, Member States may establish a limitation period that is shorter than ten years, but not shorter than five years, provided that the period may be interrupted or suspended in the event of specified acts.		
Article 12					
184	Article 12 Jurisdiction	Article 12 Jurisdiction	Article 12 Jurisdiction		
Article 12(1)					
185	1. Each Member State shall take the necessary	1. Each Member State shall take the necessary measures	1. Each Member State shall take the necessary measures		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	measures to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:	to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:	to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:		
Article 12(1), point (a)					
186	(a) the offence was committed in whole or in part on its territory;	(a) the offence was committed in whole or in part on its territory;	(a) the offence was committed in whole or in part on its territory;		
Article 12(1), point (b)					
187	(b) the offence was committed on board a ship or an aircraft registered in it or flying its flag;	(b) the offence was committed on board a ship or an aircraft registered in it or flying its flag;	(b) the offence was committed on board a ship or an aircraft registered in it or flying its flag;		
Article 12(1), point (c)					
188	(c) the damage occurred on its territory;	(c) the damage occurred on its territory;	(c) the damage forming part of the constituent elements of the offence occurred on its territory;		
Article 12(1), point (d)					
189					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(d) the offender is one of its nationals or habitual residents.	(d) the offender is one of its nationals or habitual residents: <u>or a legal person established on its territory;</u>	(d) the offender is one of its nationals or habitual residents.		
189a		<u>(da) the offence is committed for the benefit of a legal person established on its territory.</u>			
Article 12(2), first subparagraph					
190	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 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 inform the Commission where it decides to extend its jurisdiction to one or more offences referred to in Articles 3 and 4 which have been committed outside its territory, where:		
190a			(a) the offender is one of its habitual residents;		
Article 12(2), first subparagraph, point (a)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
191	(a) the offence is committed for the benefit of a legal person established on its territory;	<i>deleted</i>	(a) (b) the offence is committed for the benefit of a legal person established on its territory;		
Article 12(2), first subparagraph, point (b)					
192	(b) the offence is committed against one of its nationals or its habitual residents;	(b) the offence is committed against one of its nationals or its habitual residents;	(b) (c) the offence is committed against one of its nationals or its habitual residents;		
Article 12(2), first subparagraph, point (c)					
193	(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 on its territory.	(c) (d) the offence has created a severe risk for the environment on its territory.		
Article 12(2), second subparagraph					
194	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	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	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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	<p>State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹, be referred to Eurojust.</p> <p>1. 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).</p>	<p>conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹, be referred to Eurojust.</p> <p>1. 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).</p>	<p>conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA¹, be referred to Eurojust.</p> <p>1. 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).</p>		
Article 12(3)					
195	<p>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</p>	<p>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</p>	<p>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</p>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	only following a denunciation from the State of the place where the criminal offence was committed.	denunciation from the State of the place where the criminal offence was committed.	denunciation from the State of the place where the criminal offence was committed.		
195a	<p>Article 18 Investigative tools</p> <p>Moved reference text</p>		<p>Article 1813 Investigative tools</p> <p>Moved from row 207 [207 - 195a]</p> <p>Moved from row 207</p>		
195b	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.		Member States shall take the necessary measures to ensure that effective and proportionate 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 are		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Moved reference text		<p>available for investigating or prosecuting offences referred to in Articles 3 and 4. Where those offences are serious, special investigative tools, such as those used in countering organised crime, shall be available.</p> <p>Moved from row 208 [208 - 195b]</p> <p>Moved from row 208</p>		
Article 13					
196	Article 13 Protection of persons who report environmental offences or assist the investigation	Article 13 Protection of persons who report environmental offences or assist the investigation	Article 13 14 Protection of persons who report environmental offences or assist the investigation		
Article 13(1)					
197	1. Member States shall take the necessary measures to ensure that protection granted under	1. Member States shall take the necessary measures to ensure that protection granted under Directive	1. Without prejudice to Directive (EU) 2019/1937, Member States shall take the necessary measures to		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Directive (EU) 2019/1937, is applicable to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.	(EU) 2019/1937, is applicable to <u>is granted to any natural</u> persons reporting criminal offences referred to in Articles 3 and 4 of this Directive <u>and to ensure that a similar adequate level of protection is provided to any legal persons reporting those offences.</u>	ensure that protection granted under any persons reporting offences referred to in Articles 3 or 4 of this Directive (EU) 2019/1937, is applicable to persons reporting and providing evidence or otherwise cooperating with competent authorities for the purpose of criminal proceedings concerning such offences referred to in Articles 3 and 4 of this Directive may, in accordance with their procedural rights under the national legal system, benefit from the necessary support and assistance measures in the context of criminal proceedings.		
Article 13(2)					
198	2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and	2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and 4 of this	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	Directive and providing evidence or otherwise cooperating with the investigation, prosecution or adjudication of such offences are provided the necessary <u>protection</u> , support and assistance in the context of criminal proceedings <u>in accordance with their national legal system</u> .			
198a		<u>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.</u>			
Article 14					
199	Article 14	Article 14 <u>Rights for Publication of information in</u> the public	Article 14 15		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Rights for the public concerned to participate in proceedings	<i>concerned to participate in proceedings</i> <u>interest and access to justice for the public concerned</u>	Rights for the public concerned to participate in proceedings		
Article 14, first paragraph					
200	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.	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.	Member States shall ensure that, in accordance with their national legal system, members of the public concerned have appropriate rights to participate the persons affected by the offences referred to in Articles 3 or 4 as well as non-governmental organisations promoting environmental protection and meeting requirements under national law have appropriate procedural rights in proceedings concerning offences referred to in Articles 3 and 4, where such procedural rights for the public concerned exist in the Member State in proceedings concerning		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			other criminal offences for instance as a civil party.		
200a		<p><u>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:</u></p> <p><u>(a) final judgments, and the level of sanctions imposed by the judge;</u></p> <p><u>(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;</u></p> <p><u>(c) the arrangements to intervene in the proceedings related to the offences referred to in Articles 3 and 4.</u></p>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
200b		<u><i>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.</i></u>			
Article 15					
201	Article 15 Prevention	Article 15 Prevention	Article 15 16 Prevention	Article 15 <i>Prevention</i> Text Origin: EP Mandate	
Article 15, first paragraph					
202	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	Member States shall take appropriate action, such as information and awareness-raising campaigns <u><i>targeting all relevant stakeholders both from the public and private sector, effective law enforcement tools,</i></u> and research and education programmes, to reduce	Member States shall take appropriate action, such as information and awareness-raising campaigns and research and education programmes, to reduce-aimed at reducing overall environmental criminal offences, raise raising public awareness and reduce-reducing the		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders.	overall environmental criminal offences, raise public awareness and <u>seriously</u> reduce the risk of population of becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the <u>all</u> relevant stakeholders.	risk of population of becoming a victim of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders.		
Article 16					
203	Article 16 Resources	Article 16 Resources	Article 16 <u>17</u> Resources		
Article 16, first paragraph					
204	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	Member States shall ensure that national <u>authorities or other relevant</u> authorities which detect, investigate, prosecute or adjudicate environmental offences have a sufficient number of qualified staff, <u>including prosecutors and police authorities</u> , and sufficient financial, technical and	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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	their functions related to the implementation of this Directive.	technological resources necessary for the effective performance of their functions related to the implementation of this Directive. <u><i>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.</i></u>	functions related to the implementation of this Directive.		
204a		<u><i>Where the environmental offences are suspected to be of a cross-border</i></u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u><i>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.</i></u>			
Article 17					
205	Article 17 Training	Article 17 Training	Article 17 18 Training		
Article 17, first paragraph					
206	Without prejudice to judicial independence and differences in the	Without prejudice to judicial independence and differences in the	Without prejudice to judicial independence and differences in the		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	organisation of the judiciary across the Union, Member States shall request those responsible for the training of <u>ensure that specialised training is provided to</u> 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. <u>The Commission shall organise regular exchanges of best practices in this regard.</u>	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.		
Article 18					
207	Article 18 Investigative tools	Article 18 Investigative tools	Moved to row 195a [207 - 195a] Moved to row 195a		
Article 18, first paragraph					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
208	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.	Member States shall take the necessary <u>and appropriate</u> measures to ensure that effective investigative tools, such as those which are used in <u>countering</u> organised crime, <u>financial crime</u> , <u>cybercrime</u> or other serious crime cases, are also <u>effective and</u> available for investigating or prosecuting offences referred to in Articles 3 and 4.	Moved to row 195b [208 - 195b] Moved to row 195b		
208a		<u>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.</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 19					
209	Article 19 Coordination and cooperation between competent authorities within a Member State	Article 19 Coordination and cooperation between competent authorities within an <i>and between</i> Member State <i>State</i> States	Article 19 Coordination and cooperation between competent authorities within a Member State		
Article 19, first paragraph					
210	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 mechanisms <i>may take the form of units and bodies referred to in Article 16 of this Directive and</i> 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 mechanisms shall be aimed at least at:		
Article 19, first paragraph, point (a)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
211	(a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;	(a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;	(a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;		
Article 19, first paragraph, point (b)					
212	(b) exchange of information for strategic and operational purposes;	(b) exchange of information for strategic and operational purposes;	(b) exchange of information for strategic and operational purposes, within the limits set out in applicable rules;		
Article 19, first paragraph, point (c)					
213	(c) consultation in individual investigations;	(c) consultation in individual investigations;	(c) consultation in individual investigations, within the limits set out in applicable rules;		
Article 19, first paragraph, point (d)					
214	(d) the exchange of best practices;	(d) the exchange of best practices;	(d) the exchange of best practices;		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
214a		<u><i>(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.</i></u>			
Article 19, first paragraph, point (e)					
215	(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related infringements,	(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related infringements,	(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related infringements,		
Article 19, first paragraph, first paragraph					
216	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	networks and joint training activities.	networks and joint training activities.	networks and joint training activities.		
Article 19a					
216a		<u><i>Article 19a</i></u> <u><i>Cooperation between the Member States and the Commission, and other Union institutions, bodies, offices or agencies</i></u>			
216b		<u><i>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</i></u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<i><u>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.</u></i>			
216c		<i><u>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</u></i>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>of the arrangements for such an extension.</u>			
Article 20					
217	Article 20 National strategy	Article 20 National strategy	Article 20 National strategy		
Article 20(1)					
218	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:	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:	1. By [OP – please insert the date – within Member States shall establish and publish a national strategy on combating environmental criminal offences by [one year after the transposition period one year after the entry into force of this Directive is over]; Member States shall establish, publish and take measures to implement a national such strategy on combating environmental criminal offences which as a minimum shall address the following: without undue delay.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 20(1), point (a)					
219	(a) the objectives and priorities of national policy in this area of offence;	(a) the objectives and priorities of national policy in this area of offence, <u>including in the case of cross-border crimes</u> ;	<i>deleted</i>		
Article 20(1), point (b)					
220	(b) the roles and responsibilities of all the competent authorities involved in countering this type of offence;	(b) the roles and responsibilities of all the competent authorities involved in countering this type of offence;	<i>deleted</i>		
Article 20(1), point (c)					
221	(c) the modes of coordination and cooperation between the competent authorities;	(c) the modes of coordination and cooperation between the competent authorities <u>and the competent authorities of other Member States</u> ;	<i>deleted</i>		
Article 20(1), point (d)					
222					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(d) the use of administrative and civil law to address infringements related to the offences within the scope of this Directive;	(d) the use of administrative and civil law to address infringements related to the offences within the scope of this Directive;	<i>deleted</i>		
222a		<u>(da) the use of the proceeds of administrative and criminal sanctions for environmental restoration actions;</u>			
Article 20(1), point (e)					
223	(e) the resources needed and how specialisation of enforcement professionals will be supported;	(e) the resources needed and <u>allocated and</u> how specialisation of enforcement professionals will be supported;	<i>deleted</i>		
Article 20(1), point (f)					
224	(f) the procedures and mechanisms for regular monitoring and evaluation of the results achieved;	(f) the procedures and mechanisms for regular monitoring, <u>evaluation and</u>	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>reporting and evaluation</u> of the results achieved;			
<i>Article 20(1), point (g)</i>					
225	(g) assistance of European networks working on matters directly relevant to combating environmental offences and related infringements.	(g) assistance of European networks working on matters directly relevant to combating environmental offences and related infringements.	<i>deleted</i>		
225a		<u>(ga) assistance to and protection of victims.</u>			
<i>Article 20(2)</i>					
226	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	2. Member States shall ensure that the strategy is reviewed and updated at regular intervals no longer than 5 3 years, on a risk-analysis-based-approach <u>risk analysis and impact assessment based-approach</u> , in order to take account of relevant	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		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	threats regarding environmental crime.	developments and trends and related threats regarding environmental crime.	threats regarding environmental crime.		
Article 21					
227	Article 21 Data collection and statistics	Article 21 Data collection and statistics	Article 21 Data collection and statistics		
Article 21(1)					
228	1. Member States shall collect statistical data to monitor the effectiveness of their systems to combat environmental criminal offences.	1. Member States shall collect statistical data to monitor the effectiveness of their systems to combat environmental criminal offences.	1. Member States shall collect ensure that a system is in place for the recording, production and provision of anonymised statistical data measuring the reporting, investigative and judicial phases concerning the offences referred to in Articles 3 and 4 in order to monitor the effectiveness of their systems to combat environmental criminal offences.		
Article 21(2)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
229	2. The statistical data referred to in paragraph 1 shall include at least the following:	2. The statistical data referred to in paragraph 1 shall include at least the following:	2. The statistical data referred to in paragraph 1 shall, as a minimum, include existing data on include at least the following:		
229a			(a) the number of offences registered by the Member States;		
229b			(b) the number of natural persons that are (i) prosecuted, (ii) convicted;		
229c			(c) the number of legal persons that are (i) prosecuted, (ii) convicted or fined;		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
229d			(d) the types and levels of sanctions imposed.		
Article 21(2), point (a)					
230	(a) the number of environmental crime cases reported;	(a) the number of environmental crime cases reported;	<i>deleted</i>		
Article 21(2), point (b)					
231	(b) the number of environmental crime cases investigated;	(b) the number of environmental crime cases investigated, <u>including those involving cross-border cooperation</u> ;	<i>deleted</i>		
231a		<u>(ba) the number of environmental crime cases prosecuted and adjudicated</u> ;			
Article 21(2), point (c)					
232					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	(c) the average length of the criminal investigations of environmental crimes;	(c) the <u>median</u> , average length <u>and maximum lengths</u> of the criminal investigations of environmental crimes;	<i>deleted</i>		
<i>Article 21(2), point (d)</i>					
233	(d) the number of convictions for environmental crime;	(d) the number of convictions for environmental crime;	<i>deleted</i>		
233a		<u>(da) the number of convictions in environmental crime cases related to offences committed in the framework of a criminal organisation;</u>			
233b		<u>(db) the number of convictions for environmental crimes related to offences committed by a public</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>official or involving a public authority:</u>			
Article 21(2), point (e)					
234	(e) the number of natural persons convicted and sanctioned for environmental crime;	(e) the number of natural persons convicted and sanctioned for environmental crime;	<i>deleted</i>		
Article 21(2), point (f)					
235	(f) the number of legal persons sanctioned for environmental crime or equivalent offences;	(f) the number of legal persons sanctioned for environmental crime or equivalent offences;	<i>deleted</i>		
Article 21(2), point (g)					
236	(g) the number of dismissed court cases for environmental crime;	(g) the number of dismissed court cases for environmental crime;	<i>deleted</i>		
236a		<u>(ga) the number of court cases dismissed due to the</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
		<u>expiry of the limitation period:</u>			
Article 21(2), point (h)					
237	(h) the types and levels of sanctions imposed for environmental crime, including per categories of environmental offences according to Article 3.	(h) the types and levels of sanctions imposed for environmental crime, including per categories of environmental offences according to Article 3.	<i>deleted</i>		
Article 21(3)					
238	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 regularly published <u>published and made easily accessible at least every two years.</u>	3. Member States shall ensure that a consolidated review of their statistics is regularly published.		
Article 21(4)					
239	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard.	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	format established in accordance with Article 22.	<u>easily accessible and comparable</u> format established in accordance with Article 22 <u>within 18 months of the entry into force of this Directive.</u>	format established in accordance with Article 22.		
Article 21(5)					
240	5. The Commission shall regularly publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time three years after the standard format referred to in Article 22 has been determined.	5. The Commission shall <u>regularly at least every two years</u> publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time <u>three two</u> years after the standard format referred to in Article 22 has been determined.	5. The Commission shall regularly publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time three years after the standard format referred to in Article 22 has been determined.		
240a		<u>5a. The Commission shall develop guidelines in order to assist the Member States in the preparation of harmonised, effective, dissuasive and proportionate sanctions.</u>			

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 22					
241	Article 22 Implementing powers	Article 22 Implementing powers	Article 22 Implementing powers		
Article 22(1)					
242	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 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 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).		
Article 22(2)					
243	2. For the purposes of the transmission of statistical data, the standard format shall contain the following elements:	2. For the purposes of the transmission of statistical data, the standard format shall contain the following elements:	2. For the purposes of the transmission of statistical data, the standard format shall contain the following elements:		
Article 22(2), point (a)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
244	(a) a common classification of environmental crimes;	(a) a common classification of environmental crimes;	(a) a common classification of environmental crimes;		
Article 22(2), point (b)					
245	(b) a common understanding of counting units;	(b) a common understanding of counting units;	(b) a common understanding of counting units;		
Article 22(2), point (c)					
246	(c) a common understanding of procedural stages (investigation, prosecution, trial) in environmental crime proceedings;	(c) a common understanding of procedural stages (investigation, prosecution, trial) in environmental crime proceedings;	<i>deleted</i>		
Article 22(2), point (d)					
247	(d) a common reporting format.	(d) a common reporting format.	(d) (c) a common reporting format.		
Article 23					
248	Article 23	Article 23	Article 23		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Committee procedure	Committee procedure	Committee procedure		
Article 23(1)					
249	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
Article 23(2)					
250	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.		
Article 23(3)					
251	3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of	3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.	3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Regulation (EU) No 182/2011 shall apply.				
Article 24					
252	Article 24 Transposition	Article 24 Transposition	Article 24 Transposition		
Article 24(1)					
253	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP – please insert the date – within 18 months after entry into force of the Directive]. They shall immediately inform the Commission thereof. The methods of making such reference shall be laid down by Member States.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP – please insert the date – within 18 months after entry into force of the Directive]. They shall immediately inform the Commission thereof. The methods of making such reference shall be laid down by Member States.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP – please insert 30 months after the date – within 18 months after of entry into force of the Directive –entry into force of the Directive]. They shall immediately inform the Commission thereof. The methods of making such reference shall be laid down by Member States.		
Article 24(2)					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
254	2. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.	2. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.	2. When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.		
Article 25					
255	Article 25 Evaluation and reporting	Article 25 Evaluation and , reporting <i>and review</i>	Article 25 Evaluation and reporting		
Article 25(1)					
256	1. The Commission shall by [OP – please insert the date - two years after the	1. The Commission shall by [OP – please insert the date - two years after the	1. The Commission shall by <i>[two years after the transposition period of this</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	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.	transposition period is over], <u>and every two years thereafter</u> , 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, <u>and providing recommendations to Member States to improve compliance</u> . Member States shall provide the Commission with the necessary information for the preparation of that report, <u>including, but not limited to, data referred to in Article 21 (2)</u> .	Directive is over [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.		
Article 25(2)					
257	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	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	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	which includes a summary about implementation of and actions taken in accordance with Articles 15 to 17, 19 and 20.	which includes a summary about implementation of and actions taken in accordance with Articles 15 to 17, 19 and 20.			
<i>Article 25(3)</i>					
258	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.	3. By [OP – please insert the date -five- <i>three</i> years after the transposition period is over] <u>and every two years thereafter</u> , the Commission shall carry out an evaluation of the impact of this Directive and <u>of the need to update the list of environmental criminal offences and</u> 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. <u>The report shall be accompanied by a legislative proposal, if necessary.</u>	32. By [<i>five years after the transposition period of this Directive is over</i>] [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 a summary about the implementation and actions taken in accordance with Articles 16 to 20.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 26					
259	Article 26 Replacement of Directive 2008/99/EC	Article 26 Replacement of Directive 2008/99/EC	Article 26 Replacement of Directive 2008/99/EC		
Article 26, first paragraph					
260	Directive 2008/99/EC is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law. With regard to the Member States bound by this Directive, references to Directive 2008/99/EC shall be construed as references to this Directive. As regards Member States not bound by this Directive, they shall remain bound by Directive 2008/98/EC.	Directive 2008/99/EC is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law. With regard to the Member States bound by this Directive, references to Directive 2008/99/EC shall be construed as references to this Directive. As regards Member States not bound by this Directive, they shall remain bound by Directive 2008/98/EC.	Directive 2008/99/EC is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law. With regard to the Member States bound by this Directive, references to Directive 2008/99/EC shall be construed as references to this Directive. As regards Member States not bound by this Directive, they shall remain bound by Directive 2008/98/EC 2008/99/EC .		
Article 27					
261					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
	Article 27 Application of Directive 2005/35/EC	Article 27 Application of Directive 2005/35/EC	Article 27 Application Replacement of Directive 2005/35/EC 2009/123/EC		
Article 27, first paragraph					
262	Directive 2009/123/EC shall cease to apply to the Member States participating in this Directive from the date of its transposition.	Directive 2009/123/EC shall cease to apply to the Member States participating in this Directive from the date of its transposition.	Directive 2009/123/EC, amending Directive 2005/35/EC, shall be replaced with regard to cease to apply to the Member States participating in bound by this Directive from the date of its, without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law.		
262a			With regard to the Member States bound by this Directive, references to those provisions of Directive 2005/35/EC		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
			which were added or replaced by Directive 2009/123/EC shall be construed as references to this Directive.		
262b			Member States not bound by this Directive shall remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.		
Article 28					
263	Article 28 Entry into force		Article 28 Entry into force		
Article 28, first paragraph					
264	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal the European Union.		This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal the European Union</i> Official Journal the European Union.		

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
Article 29					
265	Article 29 Addressees		Article 29 Addressees		
Article 29, first paragraph					
266	This Directive is addressed to the Member States in accordance with the Treaties.		This Directive is addressed to the Member States in accordance with the Treaties.		
Formula					
267	Done at Brussels,		Done at Brussels,		
Formula					
268	For the European Parliament		For the European Parliament		
Formula					
269	The President		The President		
Formula					

	Commission Proposal	EP Mandate	Council Mandate	EP notes	Presidency observations
270	For the Council		For the Council		
Formula					
271	The President		The President		
