



Note on Directive (EU) 2024/1203 on the Protection of the Environment through Criminal Law

Strengthened legal framework for combating
environmental crime more effectively

29 May 2026



NOTE ON DIRECTIVE (EU) 2024/1203 ON THE PROTECTION OF THE ENVIRONMENT THROUGH CRIMINAL LAW

Strengthened legal framework for combatting environmental crime more effectively



Instrument **replacing Directives 2008/99/EC and 2009/123/EC** (protection of the environment through criminal law; ship-source pollution).

Deadline for transposition: **21 May 2026.**
Applies to all EU Member States except Denmark and Ireland.



Harmonised definitions of environmental criminal offences, incl. 20 specific offences and the qualified criminal offence for catastrophic consequences comparable to ecocide.

Much stricter and more specific penalties for natural and legal persons, incl. minimum- maximum levels of imprisonment terms and fines.



Enhanced rules on national jurisdiction over environmental criminal offences, incl. the obligation to cooperate for determining the best placed jurisdiction to conduct criminal proceedings and to **refer conflicts of jurisdiction to Eurojust.**

Strong emphasis on **improving cooperation:**



Alignment of measures and tools to be used in criminal proceedings:

- availability of **investigative tools incl. special investigative measures** like those available for organised crime or other serious crimes;
- obligation to conduct **tracing, freezing and confiscation** of instrumentalities and proceeds of environmental criminal offences.

- **at the national level:** better coordination within the entire national enforcement chain, from administrative inspection bodies to police and prosecutors; development of national strategies; sharing best practices; creation of specialised units; providing training for judges, prosecutors, and police;
- **at the EU level:** obligation for Member States, Eurojust, Europol, the EPPO, OLAF and the European Commission to cooperate in the fight against cross-border environmental crime; emphasised role of **Eurojust to provide technical and operational assistance** to facilitate coordination of cross-border investigations.



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1. Background and purpose of this note

The new Environmental Crime Directive ⁽¹⁾ (hereinafter the 'Directive') entered into force on 20 May 2024 and it is to be transposed by EU Member States into national law by 21 May 2026.

The Directive replaces ⁽²⁾ the 2008 Environmental Crime Directive ⁽³⁾ and the 2009 directive on ship-source pollution ⁽⁴⁾ and it introduces a significantly strengthened legal framework for preventing, detecting, investigating, prosecuting and adjudicating environmental offences across the EU.

The Directive recognises that environmental criminal offences increasingly extend beyond the borders of the Member States in which they are committed and often involve organised criminal groups; therefore, the response to such offences requires effective cross-border cooperation and coordination between Member States, including through EU agencies, in particular the European Union Agency for Criminal Justice Cooperation (Eurojust) and the European Union Agency for Law Enforcement Cooperation (Europol).

The purpose of this note is to (i) give a brief overview of the Directive, highlighting specifically the provisions that have direct implications for international judicial cooperation in criminal proceedings concerning environmental offences and (ii) bring to the attention of practitioners dealing with cross-border environmental crime investigations the assistance that Eurojust can provide in light of the novelties introduced by the Directive.

2. Directive (EU) 2024/1203 on the protection of the environment through criminal law

2.1. Definitions of criminal offences

One of the main objectives of the Directive is to set out minimum rules with regard to the definitions of environmental criminal offences. Article 3(2) of the Directive provides a comprehensive list of conducts to be established as criminal offences in the domestic laws of Member States.

By virtue of the Directive, **more types of conduct become 'criminal in nature'** (thus leaving Member States with no possibility to opt for administrative sanctions in respect to that conduct), and the level of harmonisation of the definitions of the conduct that constitutes environmental criminal offences increases significantly across the EU, which is expected to have a positive impact on international cooperation in criminal proceedings. Harmonised definitions of offences in the domestic criminal laws of cooperating countries help to **meet the requirements of the principle of**

⁽¹⁾ Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC (OJ L, 2024/1203, 30.4.2024, ELI: <http://data.europa.eu/eli/dir/2024/1203/oj>).

⁽²⁾ Except for Denmark and Ireland, which, due to their opt-out arrangements in the area of freedom, security and justice, did not take part in the adoption of this Directive and are not bound by it or subject to its application. This means that Denmark and Ireland remain bound by the 2008 Environmental Crime Directive.

⁽³⁾ 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, ELI: <http://data.europa.eu/eli/dir/2008/99/oj>).

⁽⁴⁾ 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, ELI: <http://data.europa.eu/eli/dir/2009/123/oj>).

dual criminality, which is a condition of various forms of international cooperation in criminal matters. ⁽⁵⁾

As compared to the replaced 2008 Environmental Crime Directive, 10 types of criminalised conducts in the list are new ⁽⁶⁾, while most of the rest have an expanded scope and an improved threshold for criminal liability. ⁽⁷⁾ In total, Article 3(2) of the Directive establishes **20 environmental criminal offences**:

- (a) **pollution** offence: discharge, emission or introduction into air, soil or water of a pollutant (including materials, substances, energy or ionising radiation), which causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (b) **product-related** offence: placing on the market of a product, the use of which results in the discharge, emission or introduction into air, soil or water of a pollutant, which causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (c) **chemicals-related** offence: manufacture, export or use of chemicals, or placing or making them available on the market, where such conduct causes or is likely to cause death or serious injury to a person or substantial damage to the environment and is contrary to applicable legal requirements;
- (d) **mercury-related** offence: manufacture, use, storage, import or export of mercury, where such conduct is not in compliance with applicable legal requirements and causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (e) **illegal execution of a project**: execution of a project without an authorisation, where such conduct causes or is likely to cause substantial damage to the environment;
- (f) **illegal management of waste**: collection, transport or treatment of waste, where such conduct is not in compliance with applicable legal requirements and concerns hazardous waste or another type of waste that causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (g) **illegal shipment of waste**: shipment of waste, where such conduct is not in compliance with applicable legal requirements and concerns a non-negligible quantity, executed in a single shipment or in several shipments;
- (h) **illegal ship recycling**: recycling of a ship, where such conduct is not in compliance with applicable legal requirements to use recycling facilities included in the European list;
- (i) **ship-source pollution**: ship-source discharge of polluting substances, which causes or is likely to cause deterioration in the water quality or damage to the marine environment;

⁽⁵⁾ Except for the judicial cooperation instruments based on the principle of mutual recognition, for which the dual criminality requirement has been abolished for a relatively extensive list of offences, including environmental criminal offences.

⁽⁶⁾ The offences provided in the paragraphs (b) to (e), (h), (k), (m), (p), (r) and (t) of Article 3(2) of the Directive.

⁽⁷⁾ The Directive establishes clearer definitions of constituent material elements of the environmental offences and sets out the *mens rea* thresholds, including the threshold at the level of 'at least serious negligence' for certain offences that lead to severe results (Article 3(4) of the Directive). Furthermore, the definition of unlawfulness is expanded to cover acts carried out in compliance with an administrative authorization 'if such authorisation was obtained fraudulently or by corruption, extortion or coercion, or if such authorisation is in manifest breach of relevant substantive legal requirements' (Article 3(1) of the Directive).

- (j) **major-industrial-accident-hazard**-related offence: operation or closure of an installation in which a dangerous activity is carried out or dangerous substances are stored or used, where such conduct causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (k) **offshore-oil-and-gas-operations**-related offence: the construction, operation or dismantling of an installation, where such conduct causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (l) **radioactive-substances**-related offence: manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material or radioactive substances, where such conduct causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (m) **illegal abstraction of water**: abstraction of surface water or groundwater, where such conduct causes or is likely to cause substantial damage to the ecological status of surface water or quantitative status of groundwater;
- (n) **wildlife** offence: killing, destruction, taking, possession, sale or offering for sale of species of wild fauna or flora protected by the legislation regarding the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States;
- (o) **illegal wildlife trade**: illegal trade in species covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, including parts or derivatives thereof;
- (p) **deforestation**-related offence: placing or making available on the EU market or exporting from the EU market of commodities or products associated with deforestation and forest degradation, in breach of applicable legal requirements;
- (q) **illegal deterioration of a habitat**: conduct causing significant deterioration of a habitat within a protected site or significant disturbance of animal species within a protected site;
- (r) **invasive-alien-species**-related offence: bringing into the territory of the EU, placing on the market, keeping, breeding, transporting, using, exchanging, permitting to reproduce, growing or cultivating, releasing into the environment, or spreading of invasive alien species of EU concern, where such conduct is contrary to applicable legal requirements and causes or is likely to cause death or serious injury to a person or substantial damage to the environment;
- (s) **ozone-depleting-substances**-related offence: production, placing on the market, import, export, use or release of substances that deplete the ozone layer (or products or equipment containing such substances);
- (t) **fluorinated-greenhouse-gases**-related offence: production, placing on the market, import, export, use or release of fluorinated greenhouse gases (or products or equipment containing such gases).

Furthermore, Article 3(3) of the Directive provides for the **qualified criminal offence**, if the conduct stipulated in Article 3(2) causes catastrophic consequences comparable to ecocide, such as the destruction of an ecosystem or a habitat, or widespread and substantial damage to an ecosystem or a habitat, or to the quality of air, soil or water.

2.2. Stricter and more specific penalties

An adequate level of severity of the applicable criminal punishment, as prescribed by the domestic law of both the requested (executing) and the requesting (issuing) country, is often a requirement for judicial cooperation in criminal matters. Usually, the requested country not only requires that the conduct is considered a crime in both jurisdictions, but also that it meets a minimum threshold of punishment. The European Investigation Order Directive ⁽⁸⁾ enables executing authorities to refuse execution of a special investigative measure where that measure is not available in a similar domestic case; this availability under the national law is often linked to the minimum threshold of the applicable criminal punishment.

The Directive establishes stricter criminal penalties by specifying the exact types and levels of the penalties for both natural and legal persons. This novelty, as compared to the 2008 Environmental Crime Directive, will facilitate **meeting the crime severity threshold** in the context of cross-border judicial cooperation, thereby determining the prioritisation of offences as serious ones and opening access to the use of international cooperation instruments and to the use of specific investigative tools.

2.2.1. Penalties for natural persons

Article 5(2) of the Directive requires that the environmental criminal offences should be punishable by the **maximum terms of imprisonment** of at least:

- **10 years**, for the offences related to pollution, product placing on the market, chemicals, mercury, illegal management of waste, major industrial accidents, offshore oil and gas operations, radioactive substances and invasive alien species, if they are **intentional** and cause the **death** of any person;
- **eight years**, for the qualified criminal offence, i.e. the conduct that causes **catastrophic consequences** comparable to ecocide;
- **five years**, for the offences related to pollution, product placing on the market, chemicals, mercury, illegal management of waste, major industrial accidents, offshore oil and gas operations and radioactive substances, if they are committed with **serious negligence** and cause the **death** of any person;
- **five years**, for the **intentional** offences related to pollution, product placing on the market, chemicals, mercury, illegal execution of a project, illegal management of waste, illegal shipment of waste, illegal recycling of ships, ship-source pollution, major industrial accidents, offshore oil and gas operations, radioactive substances, deforestation, ozone-depleting substances and fluorinated greenhouse gases;
- **three years**, for the **intentional** offences related to illegal abstraction of water, wildlife, including illegal trade therein, illegal deterioration of a habitat and invasive alien species.

In addition, Article 5(3) provides for a range of accessory criminal and non-criminal penalties or measures for natural persons.

⁽⁸⁾ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, pp. 1–36, ELI: <http://data.europa.eu/eli/dir/2014/41/oj>).

2.2.2. Penalties for legal persons

Article 7(3) of the Directive requires that the **maximum levels of fines** (which can be criminal or non-criminal) applicable to legal persons should not be less than:

- for the majority of the criminal offences established by the Directive (offences related to pollution, product placing on the market, chemicals, mercury, illegal execution of a project, illegal management of waste, illegal shipment of waste, illegal recycling of ships, ship-source pollution, major industrial accidents, offshore oil and gas operations, radioactive substances, deforestation, ozone-depleting substances and fluorinated greenhouse gases):
 - **5 % of the total worldwide turnover** of the legal person, or
 - an amount corresponding to **EUR 40 000 000**;
- for the criminal offences related to illegal abstraction of water, wildlife, including illegal trade therein, illegal deterioration of a habitat and invasive alien species:
 - **3 % of the total worldwide turnover** of the legal person, or
 - an amount corresponding to **EUR 24 000 000**.

In addition, Article 7(2) provides for a range of accessory criminal and non-criminal penalties or measures for legal persons.

2.3. Enhanced rules on jurisdiction over environmental criminal offences

Conflicts of jurisdiction arise where more than one country has the jurisdiction to prosecute a crime, or no country has the jurisdiction (i.e. 'positive' and 'negative' conflicts). They stem from the cross-border nature of crimes, and from overlapping or conflicting national laws and diverse legal traditions.

Environmental criminal offences are often transnational, involving perpetrators, victims and trafficking routes across multiple jurisdictions, with the environmental impact affecting multiple jurisdictions. Navigating varying legal frameworks concerning jurisdiction, and determining which country is best placed to prosecute, can be a challenge. In general, a solution in such cases would involve the countries concerned agreeing to concentrate proceedings in a single jurisdiction, for example by transferring all parallel proceedings to one agreed-upon country.

The Directive lays down jurisdictional rules over the environmental criminal offences. According to Article 12(1), Member States are **obliged to establish jurisdiction** over the defined offences when:

- the offence was committed in whole or in part within their territory;
- the offence was committed on board a ship or an aircraft registered in their territory or flying their flag;
- the damage occurred on their territory;
- the offender is their national.

Furthermore, Article 12(2) provides for **optional extraterritorial jurisdiction** – Member States can decide to establish jurisdiction over the defined offences committed outside their territory when:

- the offender is a habitual resident in their territory;
- the offence is committed for the benefit of a legal person based on their territory;
- the offence is committed against their national or habitual resident;
- the offence has created a severe risk for their environment.

Moreover, Recital 51 of the Directive stipulates that Member States should cooperate with Eurojust in cases where conflicts of jurisdiction could arise, and Article 12 (2) of the Directive recalls the important role of Eurojust in facilitating the resolution of conflicts of jurisdiction.

Where an environmental criminal offence falls within the jurisdiction of more than one Member State, the Directive obliges the Member States concerned to cooperate, in order to **determine the best-placed Member State to exercise the jurisdiction** and conduct the criminal proceedings. Where appropriate and in accordance with Article 12(2) of Council Framework Decision 2009/948/JHA ⁽⁹⁾, Member States are obliged to **refer conflicts of jurisdiction in criminal proceedings to Eurojust**.

Eurojust has developed a **range of tools and vast institutional experience** to assist national authorities with the coordination of parallel proceedings, preventing and solving conflicts of jurisdiction and *ne bis in idem* issues, and with transfers of proceedings. Eurojust facilitates preliminary contacts and consultations between competent national authorities, encourages and expedites the exchange of information and provides advice on which jurisdiction is better placed to prosecute in the best interests of justice. For the latter, Eurojust has published [*Guidelines for Deciding Which Jurisdiction Should Prosecute?*](#).

2.4. Coordination and cooperation between competent authorities within a Member State

Detection and investigation of environmental offences is a highly multidisciplinary area, where diverse specialised national administrative authorities (e.g. customs, environmental, veterinary, fisheries, public health and food safety authorities) may have relevant competences along with law enforcement and judicial authorities.

The Directive obliges Member States to **establish mechanisms for strategic and operational coordination and cooperation at the national level** among all their competent authorities involved in the fight against environmental criminal offences.

Eurojust's environmental crime casework experience indicates that ensuring the complementarity of competences of national authorities concerned and the exchange of information and coordination at the national level is a **precondition for effective exchange of information and cooperation at the international level** ⁽¹⁰⁾.

Article 19 of the Directive stipulates that such a mechanism shall be aimed at:

- ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;
- exchanging information for strategic and operational purposes;
- consulting in individual investigations;
- exchanging best practices; and

⁽⁹⁾ 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, ELI: http://data.europa.eu/eli/dec_framw/2009/948/oj).

⁽¹⁰⁾ Eurojust, *Report on Eurojust's Casework on Environmental Crime – January 2021*, specifically Section 6.2 'Recommendations', p. 21, <https://www.eurojust.europa.eu/publication/report-eurojusts-casework-environmental-crime>.

- providing assistance to European networks of practitioners involved in combating environmental criminal offences and related infringements.

2.5. Cooperation between Member States and the Commission, and EU bodies, offices or agencies

Considering the increasingly transnational and organised nature of environmental criminal offences, the Directive places a strong emphasis on enhancing cross-border cooperation at the EU level to combat such offences.

Article 20 of the Directive requires Member States to share information and cooperate with each other, and with Eurojust, Europol, the European Public Prosecutor's Office, the European Anti-Fraud Office and the Commission, in the fight against environmental criminal offences.

The Directive stipulates specifically the role of Eurojust to provide technical and operational assistance to the competent national authorities, in order to facilitate coordination of their investigations into cross-border environmental criminal offences.

Eurojust can provide a wide range of technical and operational assistance, including:

- legal advice and practical facilitation of applying EU and international judicial cooperation instruments (such as European Investigation Orders, European Arrest Warrants, freezing and confiscation certificates, mutual legal assistance requests, extradition requests and transfers of proceedings or sentenced persons);
- supporting the setting up and funding of joint investigation teams;
- organising coordination meetings and coordination centres with the participation of competent national authorities of Member States and non-EU states, for the direct exchange of information and coordination of cross-border investigations.

Eurojust has published the [Report on Eurojust's Casework on Environmental Crime – January 2021](#), which provides further information on Eurojust's technical and operational assistance to environmental crime investigations. Furthermore, a number of reports, guides, case-law overviews and notes concerning various topics of judicial cooperation in criminal matters, including joint investigation teams, European Investigation Orders, European Arrest Warrants, conflicts of jurisdiction, the principle of *ne bis in idem*, freezing and confiscation certificates and use of special investigative tools in cross-border investigations, are available online on [Eurojust's Publications web page](#).

3. Conclusions

The Directive significantly strengthens Member States' capacity to combat environmental criminal offences and it obliges Member States to engage in closer and more consistent cross-border cooperation. The provisions of the Directive concerning definitions of environmental criminal offences, penalties for natural and legal persons, jurisdiction over the environmental criminal offences and cooperation at the national and EU level, including the role of Eurojust in the coordination of investigations and resolution

of conflicts of jurisdiction, are expected to have **direct positive implications for the cross-border cooperation at the judicial level.** ⁽¹¹⁾

Eurojust's casework statistics indicate that the number of environmental crime cases referred for coordination and cooperation at the EU and international level has remained relatively small over the past few years. Environmental crime investigations are usually complex and resource-intensive and often involve serious organised and economic dimensions. They require a multidisciplinary approach combining means of both administrative and criminal law, and highly specialised legal, technical and scientific knowledge ⁽¹²⁾. It may be estimated that, after the transposition of the Directive, the number of complex cross-border environmental crime investigations conducted by Member States will increase. The enhanced rules on jurisdiction provided by the Directive, including the optional extraterritorial jurisdiction, can reduce the risk of 'negative' conflicts of jurisdiction in the cross-border investigations, but also potentially can lead to more 'positive' conflicts of jurisdiction and hence more need for cooperation between Member States, including through Eurojust.

Eurojust looks forward to fulfilling its role anticipated by the Directive, cooperating with all stakeholders, including the Commission, the European Public Prosecutor's Office, Europol, the European Anti-Fraud Office and competent national authorities, under the new legal framework established by the Directive, and offering Eurojust's tools and expertise to support effective cross-border judicial cooperation.

⁽¹¹⁾ This is with the caveat that Denmark and Ireland are not bound by this Directive (while remaining bound by the 2008 Environmental Crime Directive), which potentially can result in limitations to the expected positive impact, as far as cooperation involving these two Member States is concerned.

⁽¹²⁾ Eurojust, *Eurojust Annual Report 2024*, Publications Office of the European Union, Luxembourg, 2024, specifically Section 3.9 'Environmental crime', p. 36, <https://www.eurojust.europa.eu/sites/default/files/assets/files/eurojust-annual-report-2024-en.pdf>.



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