



Council of the  
European Union

Brussels, 14 September 2023  
(OR. en)

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

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12768/23  
ADD 1

**LIMITE**

**COPEN 304  
DROIPEN 129  
JAI 1119  
ENV 958  
CODEC 1553**

**NOTE**

From:	Presidency/General Secretariat of the Council
To:	Delegations
No. prev. doc.:	11962/23
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 - 4 column table following the technical meetings on 1 and 6 September 2023

Delegations will find for reference the 4 column table as prepared by the EP secretariat after the last technical meetings on 1 and 6 September 2023.

**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)**

**DRAFT [after technical meeting of 6 September 2023 v3]**

**13-09-2023 at 14h28**

	<b>Commission Proposal</b>	<b>EP Mandate</b>	<b>Council Mandate</b>	<b>Draft Agreement</b>
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				

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	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 <del>Articles</del> 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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	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>_____</p> <p>1. OJ C, , p. .</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>_____</p> <p>1. OJ C, , p. .</p>	<p>Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,</p> <p>_____</p> <p>1. OJ C, , p. .</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	<p>(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment.</p>	<p>(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment. <a href="#"><u>The environment</u></a></p>	<p>(1) According to Article 3(3) of the Treaty on European Union (TEU) and Article 191 of the Treaty on the Functioning of the European Union (TFEU), the Union is committed to ensuring a high level of protection and improvement of the quality of the environment.</p>	

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		<u>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>		
Recital 1a				
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. 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.</u>		

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Recital 2				
11	<p>(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.</p>	<p>(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 economy<sup>1a, 1b</sup> and is now as lucrative as drug trafficking<sup>1c</sup>.</i></u> Such offences pose a threat to the environment and therefore call for <del>a</del><u>a</u> <u>proportionate</u>, appropriate and effective response, <u>requiring effective cross-border cooperation</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</i></u></p>	<p>(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.</p>	

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		<u>environment.</u> <u>Ic. Eurojust (2021), Rapport sur le travail d'Eurojust sur les crimes environnementaux.</u>		
Recital 3				
12	<p>(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council<sup>1</sup> and environmental sectoral law have not been sufficient in all environmental policy area to achieve compliance with Union law for the protection of the environment. Compliance should be strengthened by the availability of criminal penalties, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties.</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 Council<sup>1</sup> and environmental sectoral law have not been sufficient in all environmental policy area to achieve compliance with Union law for the protection of the environment. Compliance should be strengthened by the availability of <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</u></p>	<p>(3) The existing systems of penalties under Directive 2008/99/EC of the European Parliament and of the Council<sup>1</sup> and environmental sectoral law have not been sufficient in all environmental policy area to achieve compliance with Union law for the protection of the environment. Compliance should be strengthened by the availability of criminal penalties, which demonstrate social disapproval of a qualitatively different nature compared to administrative penalties.</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>and that complements such law to prevent unlawful conduct that damages the environment and that serves to deter such conduct.</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	<p>(4) The effective investigation, prosecution and adjudication of environmental criminal offences should be improved. The list of environmental criminal offences which were set out in Directive 2008/99/EC should be revised and additional categories of offences based on the most serious breaches of Union environmental law should be added. Provisions on sanctions should be strengthened in order to enhance their deterrent effect as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.</p>	<p>(4) The effective <u>detection</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>targeted</u> additional categories of offences based <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></p>	<p>(4) The effective investigation, prosecution and adjudication of environmental criminal offences should be improved. The list of environmental criminal offences which were set out in Directive 2008/99/EC should be revised and additional categories of offences based on the most serious breaches of Union environmental law should be added. Provisions on sanctions should be strengthened in order to enhance their deterrent effect as well as the enforcement chain in charge of detecting, investigating, prosecuting and adjudicating environmental criminal offences.</p>	



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		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.		
Recital 5				
14	(5) Member States should criminalise offence categories and provide for greater precision on the definitions of the offence categories, and harmonisation concerning sanction types and levels.	(5) Member States should criminalise offence categories and provide for greater precision on the definitions of the offence categories, and harmonisation concerning sanction types and levels.	(5) Member States should criminalise offence categories and provide for greater precision on the 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	<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	

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	<p>of the environment. In the framework of the common fisheries policy, Union law provides for comprehensive set of rules for control and enforcement under Regulation (EC) No 1224/2009<sup>1</sup> and Regulation (EC) No 1005/2008 in case of serious infringements, including those that cause damage to the marine environment. Under this system the Member States have the choice between administrative and/or criminal sanctioning systems. In line with the Communication from the Commission on the European Green Deal<sup>2</sup> and the EU Biodiversity Strategy for 2030<sup>3</sup>, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008<sup>4</sup> 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>2. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN</p>		<p>of the environment. In the framework of the common fisheries policy, Union law provides for comprehensive set of rules for control and enforcement under Regulation (EC) No 1224/2009<sup>1</sup> and Regulation (EC) No 1005/2008 in case of serious infringements, including those that cause damage to the marine environment. Under this system the Member States have the choice between administrative and/or criminal sanctioning systems. In line with the Communication from the Commission on the European Green Deal<sup>2</sup> and the EU Biodiversity Strategy for 2030<sup>3</sup>, certain intentional unlawful conduct covered under Regulation (EC) No 1224/2009 and Regulation (EC) 1005/2008<sup>4</sup> 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>2. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN</p>	

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	<p>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 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><del>PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS</del> 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. <del>COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS</del> 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, 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>	
	Recital 7			
16				

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	<p>(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally and, in certain cases, also when committed with serious negligence. Illegal conduct that causes death or serious injury of persons, substantial damage or a considerable risk of substantial damage for the environment or is considered otherwise as particularly harmful to the environment constitutes a criminal offence when committed with serious negligence. Member States remain free to adopt or maintain more stringent criminal law rules in that area.</p>	<p>(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law protecting the environment, <u>irrespective of its legal basis</u>, or national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally and <del>in certain cases</del>, also when committed with serious negligence. Illegal conduct that causes death or serious <del>injury of persons</del> <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>(7) In order to constitute an environmental offence under this Directive, conduct should be unlawful under Union law <b>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</b> <del>protecting the environment or</del> national laws, administrative regulations or decisions giving effect to that Union law. The conduct which constitutes each category of criminal offence should be defined and, where appropriate, a threshold which needs to be met for the conduct to be criminalised should be set. Such conduct should be considered a criminal offence when committed intentionally and, in certain cases, also when committed with <b>at least</b> 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 <del>constitutes</del> <b>also constitute</b> a criminal offence</p>	

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			<p>when committed with at least serious negligence. <b>This Directive does not require the introduction of the notion of at least serious negligence for each element of the offence, 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.</b> Member States remain free to adopt or maintain more stringent criminal law rules in that area. <b>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 legal principles as enshrined in Article 6 of the TEU, including</b></p>	

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			the principle of nullum crimen, nulla poena sine lege.	
Recital 8				
17	<p>(8) A conduct should be considered unlawful also when it is carried out under an authorisation by a competent authority in a Member State if such authorisation was obtained fraudulently, or by corruption, extortion or coercion. Moreover, operators should take the necessary steps to comply with the legislative, regulatory and administrative provisions concerning the protection of environment applicable when they carry out the respective activity, including by complying with their obligations, as laid down in applicable EU and national laws, in procedures governing amendments or updates to existing authorisations.</p>	<p>(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</u>. <u>Conduct should also be considered unlawful when it breaches a condition of authorisation. From the moment a conduct becomes unlawful, the perpetrator should not be allowed to invoke the issuance of an authorisation to avoid being held criminally liable</u> <del>or coercion</del>. Moreover, operators should take the necessary steps to comply with</p>	<p>(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, <b>inter alia</b>, fraudulently, or by corruption, extortion or coercion. <del>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</del> <b>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</b></p>	

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		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.	<b>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.</b>	
Recital 8a				
17a		<u>(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</u>	(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.	

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		<u>environmental sectoral legislation. In line with existing legislation in different national criminal law systems, Member States should criminalise autonomous categories of environmental offences.</u>		
Recital 8b				
17b		<u>(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</u>		



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		<u>illegally, or directly linked to drug criminality, the supply of products should be stopped immediately.</u>		
Recital 8a				
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>		<u>(8a) With regard to offences and sanctions provided for in this Directive, legal persons should be understood as not including States or public bodies exercising State authority and public international organisations. As this Directive provides for minimum rules, Member States could adopt more stringent rules in national law, including rules on criminal liability for public bodies.</u>
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.	deleted	(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.	

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			Some criminal offences in this 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.	
Recital 9a				
18a			(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 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	

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			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.	
Recital 10				
19	(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union legislation falling within the scope	(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when Union legislation covered by this Directive evolves, this Directive should also cover any updated or amended Union legislation falling within the scope	(10) The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects, have led to the recognition of the green transition as the defining objective of our time and a matter of intergenerational equity. Therefore, when <b>The references in this Directive to the relevant terms in Union environmental law used for the purpose of defining unlawful conducts should be</b>	

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	<p>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>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 <del>amended</del> <u>revised as soon as possible</u> in order to add to the categories of criminal offences also the new serious breaches of Union environmental law, <u>thereby, while fully respecting the principles of conferral, subsidiarity and proportionality as laid down in Article 5 TEU, in order to progress towards establishing a Union environmental criminal law code, which is necessary as environmental crime often has a cross-border dimension</u>.</p>	<p><b>construed, where applicable, in accordance with definitions provided in Union legislation environmental law covered by this Directive evolves.</b> This Directive should <del>therefore</del> also cover any <b>Union acts amending provisions or requirements relevant to defining unlawful conduct which falls</b> <del>updated or amended Union legislation falling within the scope of criminal offences defined under this Directive, when the obligations under.</del> <b>When drafting such amending Union law remain unchanged in substance acts, the legislators are encouraged to include a reference to this Directive.</b> However, when new legal instruments prohibit new conduct harmful to the environment, <b>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 law are defined in Union environmental law, an amendment to this Directive should be required to include</b></p>	

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			those new categories of unlawful conduct in its scope .	
Recital 11				
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, <u>where relevant</u> , when assessing such thresholds by authorities which <u>detect</u> , 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 <u>detection</u> , 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, <b>where relevant</b> , 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.	
Recital 11a				
20a				

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			(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.	
Recital 11b				
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	

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			national law.	
Recital 12				
21	<p>(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact the environment. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. In this respect, it is of particular concern that some environmental crimes are committed with the tolerance or active support of the competent administrations or officials performing his/her public duty. In certain cases this can even take the form of corruption. Examples of such behaviours are turning a blind</p>	<p>(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 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</p>	<p>(12) In criminal proceedings and trials, due account should be taken of the involvement of organised criminal groups operating in ways that negatively impact the environment. Criminal proceedings should address corruption, money laundering, cyber-crime and document fraud and – in relation to business activities – the intention of the offender to maximise profits or save expenses, where these occur in the context of environmental crime. These crime forms are often interconnected with serious environmental crime forms and should therefore not be dealt with in isolation. In this respect, it is of particular concern that some environmental crimes are committed with the tolerance or active support of the competent administrations or officials performing his/her public duty. In certain cases this can even take the form of corruption. Examples of such behaviours are turning a blind</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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>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. <u>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.</u></p>	<p>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>	
Recital 13				
22				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence that causes death or serious injury of a person, substantial damage to the environment or is likely to cause substantial damage to the environment or is otherwise considered particularly harmful should also constitute a criminal offence when committed intentionally.	(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence that causes death or serious <del>injury of</del> <u>harm to any</u> person <del>'s health,</del> substantial damage to the <del>environment</del> <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.	(13) Inciting, and aiding and abetting the criminal offences committed intentionally should also be punishable. An attempt to commit a criminal offence that causes death or serious injury of a person, substantial damage to the environment or is likely to cause substantial damage to the environment or is otherwise considered particularly harmful should also constitute a criminal offence when committed intentionally.	
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 sanctions especially for legal	(14) Sanctions for the offences should be effective, dissuasive and proportionate. To this end, <u>in the definition and application of sanctions, Member States should also take into account the financial benefits accrued by committing the offence, the level of the damage caused, as well as</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. <del>Accessory sanctions are often seen as being more effective than financial sanctions especially for legal</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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><i>the potential for reinstatement or restoration of the environment and the costs involved in such reinstatement or restoration.</i></u> Minimum levels for the maximum term of imprisonment should be set for natural persons. Accessory sanctions <u><i>or measures</i></u> are often seen as being more effective than financial sanctions especially for legal persons. Additional sanctions or measures should <del>be</del> therefore <u><i>be</i></u> available in criminal proceedings <u><i>in accordance with national legal systems.</i></u> These should include the obligation to reinstate the environment, exclusion from access to public funding, including tender procedures, grants, <u><i>concessions and licences</i></u> <del>and concessions</del> and withdrawal of permits and authorisations <u><i>and making sentences public. In cases where an offender is not in a capacity to reinstate or restore the environment, additional sanctions should be applicable. Sanctions should also include disqualification from functions and bans on running for elected or public office.</i></u> This is without prejudice to the discretion of judges or courts in criminal</p>	<p>persons. Additional sanctions or measures should be therefore available in criminal proceedings. <b>The maximum terms of imprisonment provided for in this Directive for the offences referred to therein should apply at least to the most serious forms of such offences.</b> The criminal proceedings. These should include the obligation to reinstate the environment, exclusion from access to public funding, including tender procedures, grants and concessions and withdrawal of permits and authorisations. This is without prejudice to the discretion of judges or courts in criminal proceedings to impose appropriate sanctions in the individual cases. <b>law systems of all Member States include provisions on homicide, either committed intentionally or with serious negligence. 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.</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		proceedings to impose appropriate sanctions in the individual cases.		
Recital 14a				
23a			<p><b>(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 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.</b></p>	
Recital 15				
24	(15) Where national law provides	(15) <del>Where national law provides</del>	(15) <del>Where</del> Insofar as conduct	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>for it, legal persons should also be held criminally liable for environmental criminal offences according to this Directive. Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems provide for effective, dissuasive and proportionate sanctions types and levels as laid down in this Directive in order to achieve its objectives. Financial situation of legal persons should be taken into account to ensure the dissuasiveness of the sanction imposed.</p>	<p><del>for it,</del> 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 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><del>constituting an environmental offence is attributable to legal persons , such legal persons should be liable for environmental criminal offences, as defined in this Directive.</del> <b>Member States whose national law provides for it, the criminal liability of legal persons should also be 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.</b> Member States whose national law does not provide for the criminal liability of legal persons should ensure that their administrative sanctioning systems <b>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</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<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>	
Recital 15a				
24a		<p><u>(15a) It is important to proceed quickly with the establishment of robust Union rules for comprehensive due diligence. Therefore, additional sanctions for legal persons should include the obligation for companies to establish due diligence schemes for enhanced compliance with</u></p>	<p>(15a) Where, with regards to the determination of fines to be imposed on legal 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</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>environmental standards.</u>	<p>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 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>	
Recital 15b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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. Member States may decide on the method of calculation of those levels of fines including specific conditions for the highest levels of those fines. 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. 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</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			with regard to the development of the exchange rate.	
Recital 15c				
24c			(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 of fine determined by this Directive.	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 16				
25	<p>(16) A further approximation and effectiveness of sanction levels imposed in practice should be fostered through common aggravating circumstances that reflect the severity of the crime committed. Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent for the criminal offence, these could be considered as aggravating circumstances. Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through environmental crime are an important incentive for criminals, these should be taken into account when determining the appropriate level of sanctioning in the individual case.</p>	<p>(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 <del>injury to, a harm to any</del> person's <u>health</u>, have been caused and where these elements are not already constituent for the criminal offence, <del>these could be considered as or when an environmental criminal offence causes destruction or substantial and irreversible or long-lasting damage to an entire ecosystem, or the offence was committed in a protected area, such as an area under Natura 2000, or in an area where the offence is likely to have a significant effect in view of the conservation objectives for a protected site, these should be</del> aggravating circumstances. <del>Equally,</del> When an environmental criminal offence causes <del>substantial and irreversible or long-lasting</del> <u>severe and widespread, or severe and long-term, or severe</u></p>	<p>(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. <del>Where the death of, or serious injury to, a person, have been caused and where these elements are not already constituent</del> <b>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 increase the level of sanction. Member States should provide for the criminal offence, these could be considered as possibility of at least one of these</b> aggravating circumstances. <del>Equally, when an environmental criminal offence causes substantial and irreversible or long-lasting damage to an entire ecosystem, this</del> <b>in accordance</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>and irreversible</u> damage to <del>an</del> <u>entire the quality of air, the quality of soil or the quality of water, or to biodiversity, to</u> ecosystem <u>services and functions, or to animals or plants, such offence;</u> <del>this</del> should be <del>an aggravating circumstance because of its severity, including in cases comparable to</del> <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 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>with the applicable rules established by their legal systems on aggravating circumstances. In any case, it should be an aggravating circumstance because of its severity, including in cases comparable to ecocide. As the illegal profits or expenditure that can be generated or avoided through remain within the discretion of the judge or the court to determine the actual amount of the sanction, taking into account all the 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				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have made financial gains, such gains should be confiscated.	(17) Where the crimes are of a continuing nature, 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 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>	Moved to row 31a [26 - 31a]  Moved to row 31a	
Recital 18				
27	(18) This Directive should apply without prejudice to the general rules and principles of national criminal law on the sentencing or	(18) This Directive should apply without prejudice to the general rules and principles of national criminal law on the sentencing or	(18) This Directive should apply without prejudice to the general rules and principles of national criminal law on the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the application and execution of sentences in accordance with the specific circumstances in each individual case.	the application and execution of sentences in accordance with the specific circumstances in each individual case.	sentencing or the application and execution of sentences in accordance with the specific circumstances in each individual case. <b>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 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</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			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.	
Recital 18a				
27a		<u>(18a) Notwithstanding the benefits of this Directive in improving legal coherence at Union level, the Union is still faced with regulatory fragmentation in this area and a lack of uniformity in legal and practical terms. The differences in implementation and application of Union rules regarding environmental crime and liability mean there is an absence of a level playing field for Union industry at present, and as a result the proper functioning of the internal market is being impaired. The Commission should,</u>		

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		<u>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>		
Recital 18b				
27b		<u>(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.</u>		
Recital 19				
28	(19) Member States should lay down rules concerning limitation periods necessary in order to enable them to counter	(19) Member States should lay down rules concerning limitation periods necessary in order to enable them to counter	Moved to row 31b [28 - 31b]	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement.	environmental criminal offences effectively, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement.	Moved to row 31b	
Recital 20				
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.	( <del>20</del> 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	(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	( <del>21</del> 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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of ne bis in idem.	the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of ne bis in idem.	States should ensure that the imposition of criminal sanctions and of administrative sanctions respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of <i>ne bis in idem</i> .	
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 <u>prevention methods</u> , criminal <u>penalties and confiscation</u> and other measures to address different types of criminal behaviour in a tailored, <u>timely, proportionate</u> and effective manner.	( <del>22</del> 20) 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.	
Recital 22a				
31a	(17) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have		( <del>17</del> 21) Where the crimes are of a continuing nature, they should be brought to an end as soon as possible. Where offenders have	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>made financial gains, such gains should be confiscated.</p> <p>Moved reference text</p>		<p>made financial gains, such gains should be confiscated.</p> <p>Moved from row 26 [26 - 31a]</p> <p>Moved from row 26</p>	
Recital 22b				
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>(19<del>22</del>) 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><b>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 system of each Member State.</b></p> <p>Moved from row 28 [28 - 31b]</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			Moved from row 28	
Recital 22a				
31c		<p><u>(22a) Legal persons convicted for criminal offenses listed in Articles 3 and 4 of this Directive should be temporarily removed from the Transparency Register established pursuant to the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission. The judicial decisions resulting in such convictions should be made accessible in all the Member States and referred to the Union institutions in charge of the Transparency Register. Therefore, the Union institutions should adapt the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register to allow temporary removal of</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><a href="#">legal persons convicted for environmental crimes.</a></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. <b>Member States should also cooperate with Eurojust, in particular on the basis of Regulation (EU) 2018/1727 of the European Parliament and of the Council<sup>1</sup>, 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</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p>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 (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138–183).</p>	
Recital 23a				
32a			<p>(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.</p>	
Recital 23b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
32b	<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 right to the protection of personal data must be respected.</p> <p>Moved reference text</p>		<p>(29<del>24</del>) 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. <del>These, if and to the extent that the use of those tools should include among others</del> <b>is appropriate and proportionate to the nature and gravity of the offences as defined in national law. Tools such as</b> the interception of communications, covert surveillance including electronic surveillance, controlled deliveries, the monitoring of bank accounts and other financial investigation tools <b>could be included</b>. 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. <del>In accordance with national law, the nature and gravity of the offences under investigation should justify the use of these investigative tools.</del> The right to the protection of personal data must be respected.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			Moved from row 38 [38 - 32b]  Moved from row 38	
Recital 24				
33	(24) Environmental criminal offences harm nature and society. By reporting breaches of Union environmental law, people perform a service of public interest and play a key role in exposing and preventing such breaches, and thus safeguarding the welfare of society. Individuals in contact with an organisation in the context of their work-related activities are often the first to know about threats or harm to the public interest and the environment. Persons who report irregularities are known as whistleblowers. Potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation. Such persons should benefit from balanced and effective whistleblowers protection set out under Directive (EU) 2019/1937of	(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. 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	(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 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 <del>should</del> benefit from balanced and effective <del>whistleblowers</del> <b>whistleblower</b> protection set out under Directive	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>the European Parliament and of the Council<sup>1</sup>.</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>whistleblowers protection set out under Directive (EU) 2019/1937 of the European Parliament and of the Council<sup>1</sup>.</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>(EU) 2019/1937 of 2019/1937 of the European Parliament and of the Council<sup>1</sup>, <b>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 Member States bound by it.</b></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</p>	<p>(25) Other <u>natural or legal</u> persons may also possess valuable information concerning potential environmental criminal offences. They may <del>be</del><u>include</u> members of the community affected, <u>civil society organisations, including non-governmental organisations,</u> or members of society at large</p>	<p>(<del>25</del>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</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. These persons should also be protected from being harassed or unduly prosecuted for reporting such offences or their cooperation in the criminal proceedings.</p>	<p>taking an active part in protecting the environment. Such persons who report environmental crimes as well as persons who cooperate with the enforcement of such offences should be provided the necessary <u>protection</u>, 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 <b>with</b> the necessary support and assistance in the context of criminal proceedings, so that they are not disadvantaged for their cooperation but supported and assisted. <del>These</del> <b>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 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</b></p>	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			required to make available the support and assistance measures to persons who are suspected or accused in the context of the criminal proceedings concerned.	
Recital 25a				
34a		<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>		
Recital 25b				
34b		<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</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>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>		
Recital 26				
35	(26) Since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus Convention <sup>1</sup> , should have the possibility to act on behalf of the environment as a public good, within the scope of the Member States' legal framework and subject to the relevant procedural rules.	(26) Since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus Convention <sup>1</sup> , should have the possibility to act on behalf of the environment as a public good, within the scope of the Member States' legal framework and subject to the relevant procedural rules.	<del>(26)</del> (27) Since nature cannot represent itself as a victim in criminal proceedings, for the purpose of effective enforcement members of the public concerned, <del>as defined in this Directive taking into account Articles 2(5) and 9(3) of the Aarhus Convention<sup>1</sup></del> , 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.	


	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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.	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.	<del>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.</del>	
Recital 26a				
35a		<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>	(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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<p><b>Directive 2012/29/EU of the European Parliament and of the Council<sup>1</sup>. This 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.</b></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>	
Recital 26b				
35b		<p><u>(26b) As a preventative measure, legal persons are encouraged to appoint an environmental compliance officer, to be in</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>charge of record-keeping for the purpose of providing administrative or judicial authorities with information, for possible discovery procedures or subpoenas, to identify offenders and non-offenders. The actions of an environmental compliance officer, where appropriate, could be a mitigating factor when the officer provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, when legal persons are held liable for offences committed.</i></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	(27) Lack of resources and enforcement powers for national authorities <u><i>and other relevant authorities</i></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	<del>(27)</del> (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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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.	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.	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.	
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,	(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 <u>and financial support</u> 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	(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,	

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

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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.	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 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	(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal law measures, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. Following the applicable rules, Member States should also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European Public Prosecutor's	(30) To ensure an effective, integrated and coherent enforcement system that includes administrative, civil and criminal law measures, Member States should organise internal cooperation and communication between all actors along the administrative and criminal enforcement chains and between punitive and remedial sanctioning actors. Following the applicable rules, Member States should also cooperate through EU agencies, in particular Eurojust and Europol, as well as with EU bodies, including the European Public Prosecutor's	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.	Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.	Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.	
Recital 30a				
39a		<p><u>(30a) Given the high financial impact of environmental offences, their potential link with other serious financial crimes, as well as their cross-border nature, the European Public Prosecutor's Office would be best placed to exercise its competences on the most serious environmental crimes with a cross-border dimension. The EPPO's competences being currently limited to financial crimes, the Commission should precise in a report the possibility for an extension of the competences of the EPPO in cooperation with Eurojust to include serious cross-border environmental crimes, and the arrangements for such an extension.</u></p>		
Recital 31				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
40	(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish and periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed.	(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish and periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed.	(31) To ensure a coherent approach to combating environmental offences, Member States should adopt, publish, <b>implement</b> and periodically review a national strategy on combating environmental crime, establishing objectives, priorities and corresponding measures and resources needed. <b>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 constitutional traditions in terms of separation of powers and competences and may be either sectorial or a part</b>	

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

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	on the data transmitted by the Member States.	<u>the sanctions imposed on the offenders. At Union level,</u> <del>the</del> Commission should regularly assess and publish the results based on the data transmitted by the Member States.	and strategic planning of enforcement activities, <b>to analyse the scale of and trends in environmental offences</b> , as well as for providing information to citizens. Member States should <del>collect and</del> 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.	
Recital 33				
42	(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	(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	(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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>the European Parliament and of the Council<sup>1</sup>.</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 concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p>the European Parliament and of the Council<sup>1</sup>.</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 concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p>the European Parliament and of the Council<sup>1</sup>.</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 concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	
Recital 34				
43	<p>(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.</p>	<p>(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.</p>	<p>(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.</p>	
Recital 35				
44	<p>(35) Alternatives – please delete one option according to the IRL choice:</p>	<p>(35) Alternatives – please delete one option according to the IRL choice:</p>	<p>(35) Alternatives – please delete one option according to the IRL choice:</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			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 is not taking part in the adoption of this Directive and is not bound by it or subject to its application. OR	(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 not taking part in the adoption of this Directive and is not bound by it or subject to its application. OR	(36) <del>[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 not taking part in the adoption of this Directive and is not bound by it or subject to its application. OR</del> [non existent]	
Recital 36, second subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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>	
<i>Recital 37</i>				
47	(37) Directive 2005/35/EC of the European Parliament and of the Council <sup>1</sup> was supplemented by Directive 2009/123/EC of the European Parliament and of the Council <sup>2</sup> 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.  _____	(37) Directive 2005/35/EC of the European Parliament and of the Council <sup>1</sup> was supplemented by Directive 2009/123/EC of the European Parliament and of the Council <sup>2</sup> 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.  _____	(37) Directive 2005/35/EC of the European Parliament and of the Council <sup>1</sup> was supplemented by Directive 2009/123/EC of the European Parliament and of the Council <sup>2</sup> 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 <del>participating</del> <b>bound by</b> in this Directive, Directive 2009/123/EC should be replaced. <b>That replacement should be without prejudice to</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<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>	<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>	<p><b>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 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.</b></p> <hr/> <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	Draft Agreement
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 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	(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 with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that	(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 with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article, this Directive does not go beyond what is necessary to achieve that objective.	Article, this Directive does not go beyond what is necessary to achieve that objective.	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 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,	(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 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,	(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 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				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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  Text Origin: Commission Proposal
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 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.	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 <del>criminal</del> offences and sanctions in order to protect the environment more effectively, <u>as well as measures to prevent and combat crime in the field of the environment and to effectively enforce the Union's environmental law</u> '.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 2			
G	54	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions  Text Origin: Commission Proposal
	Article 2, first paragraph -a			
Y	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).	
	Article 2, first paragraph			
Y	55	For the purpose of this Directive, the following definitions apply:	2. For the purpose of this Directive, the following definitions apply:	
	Article 2, first paragraph, point (1)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
56	(1) 'unlawful' means a conduct infringing one of the following:	(1) 'unlawful' means a conduct infringing one of the following:	<i>deleted</i>	
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 <del>legislation</del> <u>law</u> which <del>irrespective of its legal basis</del> contributes to the pursuit <del>of</del> 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>	
Article 2, first paragraph, point (1)(b)				
58	(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 <del>legislation</del> <u>law</u> referred to in point (a).	<i>deleted</i>	
Article 2, first paragraph, point (1), first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	59	<p>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;</p> <p>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>;</p>	deleted	Y
Article 2, first paragraph, point (1a)				
Y	59a	<p><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></p>		Y
Article 2, first paragraph, point (1b)				
Y	59b	<p><u>(1b) 'widespread', for the purpose of Article 3 paragraph 1a, in relation to damage, means that</u></p>		Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>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>		
Article 2, first paragraph, point (1c)				
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>		
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 <sup>1</sup> , or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive	(2) 'habitat within a protected site' means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council <sup>1</sup> , or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive	(2) <del>'habitat within a protected site' means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>1</sup>, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Council Directive</del>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>92/43/EEC<sup>2</sup>;</p> <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>92/43/EEC<sup>2</sup>;</p> <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>92/43/EEC<sup>2</sup>;</p> <p><del>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).</del></p> <p><del>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).</del></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><del>(3)</del> ‘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;</p> <p>See text in row 17c on a recital.</p> <p>Text Origin: Commission Proposal</p>
Article 2, first paragraph, point (4)				
62	<p>(4) ‘public concerned’ means the</p>	<p>(4) ‘public concerned’ means the</p>		

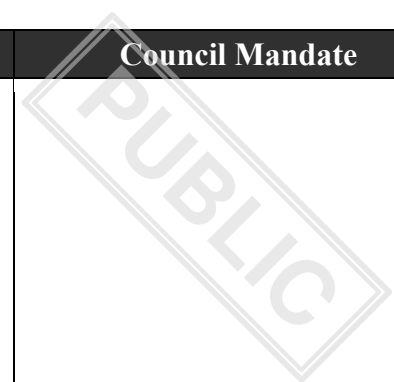


	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	persons affected or likely to be affected by the offences referred to in Articles 3 or 4. For the purposes of this definition, persons having a sufficient interest or maintaining the impairment of a right as well as non-governmental organisations promoting the protection of the environment and meeting any proportionate requirements under national law shall be deemed to have an interest;	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>	<i>EP prefers to keep the COM proposal, but it is ready to drop "civil society organisations" since the Council agreed in line 200 (Article 14/15) to restore "or likely to be affected".</i>
<i>Article 2, first paragraph, point (5)</i>				
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 Council<sup>1</sup>.</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 Council<sup>1</sup>.</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><del>(5) 'victim' has the meaning attributed to it in Article 2(1) point (a) of Directive 2012/29/EU of the European Parliament and of the Council<sup>1</sup>.</del></p> <p><del>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).</del></p>	

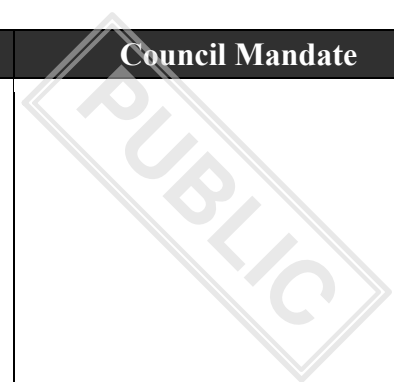
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 2, first paragraph, point (5a)			
Y	63a	<u>(5a) 'environmental damage' means serious harm to any person's health, or substantial damage to the quality of air, the quality of soil or the quality of water, or to biodiversity, ecosystem 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;</u>		
	Article 3			
G	64	Article 3 Offences	Article 3 Offences	Article 3 Offences  Text Origin: Commission Proposal
	Article 3(-1)			
Y	64a		1. Member States shall ensure that the conducts referred to in	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			paragraphs 2 and 3 constitute criminal offences when they are unlawful.	
	Article 3(-1a)			
Y	64b		For the purpose of this Directive the ‘unlawful’ conduct shall mean a conduct infringing one of the following:	Y
	Article 3(-1b)			
Y	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;	Y
	Article 3(-1c)			
Y	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	Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			referred to in point (a).	
Article 3(1)				
65	1. Member States shall ensure that the following conduct constitutes a criminal offence when it is unlawful and committed intentionally:	1. Member States shall ensure that the following conduct constitutes a criminal offence when it is unlawful and committed intentionally:	12. Member States shall ensure that the following conduct constitutes a criminal offence when it is <del>unlawful and</del> 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 <del>injury</del> <u>harm</u> to any person <u>'s health</u> or substantial damage to the quality of air, the quality of soil or the quality of water, or to <u>biodiversity</u> , <u>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;	(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 <u>injury</u> to any person <u>l</u> or substantial damage to the quality of air, the quality of soil or the quality of water, or to <u>an ecosystem</u> , animals or plants;  The term [injury/harm] used in the definition of certain offences in this Directive should be understood in a broad sense, covering any form of physical [harm/injury] to a person,

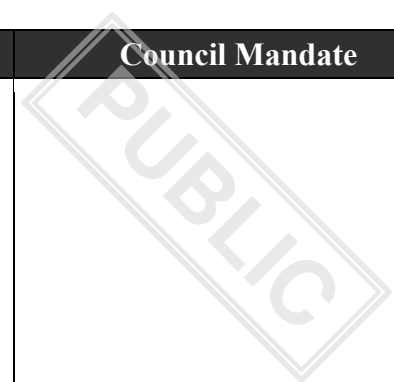


	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>including a change in body function or cell structure, temporary, fatal or chronic disease, malfunction of the body, deterioration of human physical health, but excluding mental health.</p> <p>Council to check corresponding recitals:</p> <p>The introduction of different forms of energy, such as heat or other sources of thermal energy, noise (including underwater noise) and other sources of sound energy, vibrations, electromagnetic fields, electricity or light, into the environment can cause substantial damage to the quality of air, water or soil or substantial damage to an ecosystem, animals or plants, or death or serious injury to persons. Various instruments of Union environmental law regulate on the introduction of energy into the environment, for example in the area of protection of water, the marine environment, noise control, waste management and industrial emissions. Therefore, in such cases, unlawful introduction of energy into the environment should constitute an offence under this Directive if it causes or is likely to cause substantial damage to the environment or human</p>



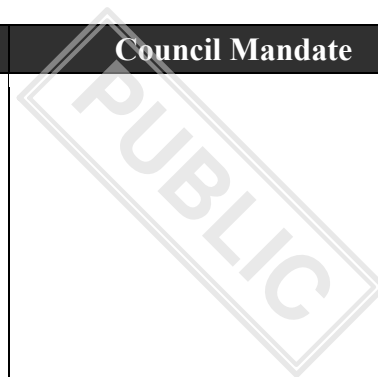
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>health.</p> <p>The environment should be protected in a wide sense, as set out under Article 3(3) TEU and Article 191 TFEU, covering all natural resources - air, water, soil, ecosystems, including ecosystem services and functions, wild fauna and flora including habitats, as well as services provided by natural resources. Some criminal offences in this 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 an ecosystem, animals or plants. In order to protect the environment to the fullest extent possible, this qualitative threshold should be understood in a wide sense including, where relevant, substantial damage to fauna and flora, habitats, to services provided by natural resources and by ecosystems as well as to ecosystem functions. An ecosystem should be understood as a dynamic complex of plant, animal, fungi and microorganism communities and their non-living environment, interacting as a functional unit, and should cover habitat types, habitats of species and species populations, including ecosystem services, through which an ecosystem contributes</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>directly or indirectly to human wellbeing, and ecosystem functions, which refer to natural processes in an ecosystem.</p> <p>Text Origin: Commission Proposal</p>
Article 3(1), point (b)				
67	<p>(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;</p>	<p>(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 <del>injury</del> <u>harm</u> to any person <u>'s health</u> or substantial damage to <u>the quality of air, the quality of soil or the</u> <del>air,</del> <u>water or soil</u> quality <u>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;</p>	<p>(b) the placing on the market, <b>in breach of a prohibition or another requirement aimed at protecting the environment,</b> of a product, <b>the use of</b> which, <del>in breach of a prohibition or another requirement</del> <b>results in the discharge, emission or introduction of a quantity of materials or substances or ionising radiation into air, soil or water, which</b> 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;</p>	<p>(b) the placing on the market, <u>in breach of a prohibition or another requirement aimed at protecting the environment,</u> of a product, <u>the use of</u> which, <del>in breach of a prohibition or another requirement,</del> <u>results in the discharge, emission or introduction of a quantity of materials or substances, energy or ionising radiation into air, soil or water, which</u> causes or is likely to cause death or serious injury to any person or substantial damage to air, water or soil quality, or to <u>an ecosystem,</u> animals or plants as a result of the product's use on a larger scale;</p> <p>Recital on "aimed at" from COM:</p>



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>This Directive defines as an offence 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 results in the discharge, emission or introduction of a quantity of materials or substances, energy or ionising radiation into air, soil or water, which causes or is likely to cause substantial damage to the environment or human health as a result of the product's use on a larger scale. In this context, a prohibition or another requirement aimed at protecting the environment should refer to EU law and national law transposing such EU law which has, among its objectives or aims the protection of environment, including preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilisation of natural resource or combating the climate change, or promoting measures at international level to deal with regional or worldwide environmental problems. Indeed, if the sole objective of EU law concerns another area of EU law, for example protection of workers' health and safety, that is not covered under definition of this offence.</p>





	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>Recital on "online"</p> <p>When offences defined in this Directive cover conduct such as making available or placing on the market, sale, offering for sale or trading, this should include conduct committed by means of information and communication technologies (online trade).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (c)				
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> <del>on the</del> 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 <b>or making available</b> on the market, <b>import, export</b> 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</u> on the market, <u>export</u> or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, when:  Text of the agreed recital:  When offences defined in this Directive cover conduct such as making available or placing on the market, sale, offering for sale or

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>trading, this should include conduct committed by means of information and communication technologies (online trade).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (c)(i)				
69	<p>(i) this activity is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).</p>	<p>(i) this activity is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).</p>	<p>(i) this <del>activity</del> <b>conduct</b> is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).</p>	<p>(i) this <del>activity</del> <b>conduct</b> is restricted pursuant to Title VIII and Annex XVII of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>1. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).</p> <p>Text Origin: Council Mandate</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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 <del>activity</del> <b>conduct</b> is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or	(ii) this <del>activity</del> <b>conduct</b> is prohibited pursuant to Title VII of Regulation (EC) No 1907/2006; or  Text Origin: Council Mandate
	Article 3(1), point (c)(iii)			
71	(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>1</sup> ; or  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).	(iii) this activity is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>1</sup> ; or  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).	(iii) this <del>activity</del> <b>conduct</b> is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>1</sup> ; or  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).	(iii) this <del>activity</del> <b>conduct</b> is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>1</sup> ; or  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).  Text Origin: Council Mandate
	Article 3(1), point (c)(iv)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
72	<p>(iv) this activity is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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).</p>	<p>(iv) this activity is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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).</p>	<p>(iv) this <del>activity</del> <b>conduct</b> is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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).</p>	<p>(iv) this <del>activity</del> <b>conduct</b> is not in compliance with Regulation (EC) No 528/2012 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (c)(v)				
73	<p>(v) this activity falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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 and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).</p>	<p>(v) this activity falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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 and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).</p>	<p>(v) this <del>activity</del> <b>conduct</b> falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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 and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).</p>	<p>(v) this <del>activity</del> <b>conduct</b> falls under Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>1</sup>; or</p> <p>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 and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 3(1), point (c)(vi)				
74	<p>(vi) this activity is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council<sup>1</sup>,</p> <p>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).</p>	<p>(vi) this activity is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council<sup>1</sup>,</p> <p>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).</p>	<p>(vi) this <del>activity</del> <b>conduct</b> is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council<sup>1</sup>,</p> <p>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).</p>	<p>(vi) this <del>activity</del> <b>conduct</b> is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council<sup>1</sup>,</p> <p>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).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (c), first paragraph				
75	<p>and it causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;</p>	<p>and it causes or is likely to cause death or serious <del>injury</del> <b>harm</b> to any person's <b>health</b> or substantial damage to the quality of air, the quality of soil or the quality of water, or to <b>biodiversity, ecosystem services and functions</b>, animals or plants;</p>	<p>and it causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;</p>	<p>and it causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to <b>an ecosystem</b>, animals or plants;</p> <p>Text Origin: Council Mandate</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 3(1), point (c), first paragraph a			
G	75a	<p><u>(ca) any conduct in breach of the Regulation (EU) 2017/852 of the European Parliament and of the Council<sup>1a</sup>;</u></p> <p><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></p>	<p>(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;</p>	<p><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 an ecosystem, animals or plants;</u></p> <p>Text Origin: Council Mandate</p>
	Article 3(1), point (cb)			
Y	75b	<p><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</u></p>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>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>		
Article 3(1), point (d)				
76	<p>(d) the execution of projects referred to in Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council<sup>1</sup> without a development consent or an assessment with regard to their effects on the environment, which causes or is likely to cause substantial damage to the factors defined in Article 3(1) of Directive 2011/92/EU;</p> <p>1. Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the</p>	<p>(d) the execution of projects referred to in Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council<sup>1</sup> without a development consent or an assessment with regard to their effects on the environment, which causes or is likely to cause substantial damage to the factors defined in Article 3(1) of Directive 2011/92/EU;</p> <p>1. Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the</p>	<p>(d) <b>for the project developer, as defined the execution of projects referred to in Article 1(2)(a) 1(2)(b)</b> of Directive 2011/92/EU of the European Parliament and of the Council<sup>1</sup>, <b>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</b> which causes or is likely to cause substantial damage to the factors</p>	<p>(d) the execution of projects referred to in Article 1(2)(a) <u>and 4(1) and (2) and listed in Annex I or II</u> of Directive 2011/92/EU of the European Parliament and of the Council<sup>1</sup>, without a development consent <del>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 and</del> <u>which causes or is likely to cause substantial damage the quality of air, the quality of soil or the status</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).	effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).	defined in Article 3(1) of Directive 2011/92/EU <b>quality of air, the quality of soil or the status of water, or to animals or plants;</b>  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).	<u><b>of water, or to an ecosystem, animals or plants;</b></u>  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).  Council agrees to delete the reference to "project developer"  Text Origin: Commission Proposal
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 <del>an unlawful</del> <b>such</b> conduct:	(e) the collection, transport, <del>recovery or disposal</del> <u>or treatment</u> 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 <del>an unlawful</del> <u>such</u> conduct:  Text Origin: Council Mandate



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 3(1), point (e)(i)				
78	<p>(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>1</sup> and is undertaken in a non-negligible quantity;</p> <p>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).</p>	<p>(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>1</sup> and is undertaken in a non-negligible quantity;</p> <p>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).</p>	<p>(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>1</sup> and <del>is undertaken in</del> <b>when it concerns</b> a non-negligible quantity;</p> <p>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).</p>	<p>(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council<sup>1</sup> and <del>is undertaken in</del> <b>when it concerns</b> a non-negligible quantity;</p> <p>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. <del>3–30</del> <b>31</b>).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (e)(ii)				
79	<p>(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;</p>	<p>(ii) concerns other waste than referred to in point (i) and causes or is likely to cause death or serious <del>injury</del> <b>harm</b> to any person's <b>health</b> or substantial damage to the quality of air, the quality of soil or the quality of water, or to <b>biodiversity, ecosystem services and functions</b>, animals or plants;</p>	<p>(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;</p>	<p>(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 <b>an ecosystem</b>, animals or plants;</p> <p>Text Origin: Council Mandate</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 3(1), point (f)			
G	<p>80</p> <p>(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>1</sup> when such shipment is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;</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>(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>1</sup> when such shipment is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;</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>(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>1</sup> when such shipment is <del>undertaken in</del> <b>concerns</b> 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>Text Origin: Council Mandate</p>	<p>(f) the shipment of waste, within the meaning of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>1</sup> when such shipment <del>is undertaken in</del> <b>concerns</b> 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)			
Y	<p>81</p> <p>(g) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>1</sup>, without complying with</p>	<p>(g) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>1</sup>, without complying with</p>	<p>(g) <b>for the owner, as defined in Article 3(1), point (14)</b> <del>the recycling of ships falling within the scope of</del> Regulation (EU) No 1257/2013 of the European</p>	<p>EP supports the CNL text except:</p> <p>- limiting it to "owner" only;</p>

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	<p>the requirements of Article 6(2), point (a) 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>	<p>the requirements of Article 6(2), point (a) 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>	<p>Parliament and of the Council<sup>1</sup>, of <b>a ship falling within the scope of that Regulation, the recycling of a ship</b> without complying with the requirements <del>of</del> <b>referred to in</b> Article 6(2), point (a) of that Regulation, <b>which impose recycling at ship recycling facilities which are included in the European List established under Article 16 of that Regulation;</b></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	<p>(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council<sup>1</sup> on ship-source pollution and on the introduction of penalties, including criminal penalties, into any of the areas referred to in Article 3(1) of</p>	<p>(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 2005/35/EC of the European Parliament and of the Council<sup>1</sup> on ship-source pollution and on the introduction of penalties, including</p>	<p>(h) the ship-source discharges of polluting substances referred to in Article 4(1) of Directive 2005/35/EC of the European Parliament and of the Council<sup>1</sup> <del>on ship-source pollution and on the introduction of penalties, including criminal penalties,</del> into any of the areas referred to in Article 3(1) of</p>	<p>(h) the ship-source <del>discharges</del> <u>discharge</u> of polluting substances <del>referred to in</del> <u>falling within the scope of</u> Article <del>4(1)</del> <u>3</u> of Directive 2005/35/EC of the European Parliament and of the Council<sup>1</sup> <del>on ship-source pollution and on the introduction of penalties, including criminal</del></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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 255, 30.9.2005, p. 11–21).</p>	<p>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 <del>individual</del><u>minor</u> cases, where the ship-source discharge does not cause deterioration in the quality of water <u>or the marine environment</u>, unless repeated cases by the same offender in conjunction result in deterioration in the quality of water <u>or the marine environment</u>;</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. 11–21).</p>	<p>that Directive, <del>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.</del> The present paragraph shall not apply either to <del>minor</del> to individual cases, where the ship-source discharge <del>act committed</del> does not cause deterioration in the quality of water, unless the conjunction of repeated <del>minor</del> cases by the same offender in conjunction result, that do not individually do so, results 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 255, 30.9.2005, p. 11–21).</p>	<p><del>penalties</del>, into any of the areas referred <del>to</del> in Article 3(1) of that Directive, provided that <del>the</del><u>such</u> ship-source <del>discharges</del> <u>discharge does</u> not satisfy the exceptions set in Article 5 of that Directive; <del>this provision shall not apply to individual cases, where the ship-source discharge does not</del> <u>, and which causes or is likely to</u> cause deterioration in the quality of water; <del>unless repeated cases by the same offender in conjunction result in deterioration in the quality of water; or damage to the marine environment.</del></p> <p><del>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).</del></p>
	Article 3(1), point (i)			
83	(i) the installation, operation or	(i) the installation, operation or	(i) the <del>installation</del> , operation or	(i) the <del>installation</del> , operation or

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>dismantling of an installation in which a dangerous activity is carried out or in which dangerous substances, preparations or pollutants are stored or used falling within the scope of Directive 2012/18/EU of the European Parliament and of the Council<sup>1</sup>, Directive 2010/75/EU of the European Parliament and of the Council<sup>2</sup> or Directive 2013/30/EU of the European Parliament and of the Council<sup>3</sup> and which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;</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 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</p>	<p>dismantling of an installation in which a dangerous activity is carried out or in which dangerous substances, preparations or pollutants are stored or used falling within the scope of Directive 2012/18/EU of the European Parliament and of the Council<sup>1</sup>, Directive 2010/75/EU of the European Parliament and of the Council<sup>2</sup> or Directive 2013/30/EU of the European Parliament and of the Council<sup>3</sup> and which causes or is likely to cause death or serious <del>injury</del><sup>harm</sup> to any person's <sup>health</sup> 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;</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 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><del>dismantling-closure</del> of an installation in which a dangerous activity is carried out or in which dangerous substances, <del>preparations or pollutants or mixtures</del> are stored or used, <b>when such a conduct and such a dangerous activity, substance or mixture fall within the scope of</b> <del>falling within the scope of</del> Directive 2012/18/EU of the European Parliament and of the Council<sup>1</sup>; Directive 2010/75/EU <del>2012/18/EU</del> of the European Parliament and of the Council<sup>2</sup> <del>or</del><sup>1</sup> <b>or of</b> Directive 2013/30/EU <del>2010/75/EU</del> of the European Parliament and of the Council<sup>3</sup> <del>and which</del><sup>2</sup>, <b>and when such a conduct</b> causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants; <b>[If a 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,</b></p>	<p><del>dismantling-closure</del> of an installation in which a dangerous activity is carried out or in which dangerous substances, <del>preparations or pollutants or mixtures</del> are stored or used, <u>when such a conduct and such a dangerous activity, substance or mixture fall within the scope of</u> <del>falling within the scope of</del> Directive 2012/18/EU of the European Parliament and of the Council<sup>1</sup>; Directive 2010/75/EU <del>2012/18/EU</del> of the European Parliament and of the Council<sup>2</sup> <del>or</del><sup>1</sup> <b>or of</b> Directive 2013/30/EU <del>2010/75/EU</del> of the European Parliament and of the Council<sup>3</sup> <del>and which</del><sup>2</sup>, <b>and when such a conduct</b> 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 <u>an ecosystem</u>, animals or plants; <u><b>[If a 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</b></u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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>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><b>point (i) to be replaced with a criminal offence within the scope of that Directive.]</b></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 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><del>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).</del></p>	<p><u>waste is adopted before this Directive, point (i) to be replaced with a criminal offence within the scope of that Directive.]</u></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 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><del>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).</del></p> <p>EP agrees with CNL text except the horizontal issue (see row 66).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (ia)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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 Council<sup>1</sup>, 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. 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><u>(ia) 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 Council<sup>1</sup>, 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 an ecosystem, animals or plants;</u></p> <p><u>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).</u></p> <p>EP agrees with CNL text except the horizontal issue (see row 66).</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (j)				
84	(j) the manufacture, production,	(j) the manufacture, production,	(j) the manufacture, production,	(j) the manufacture, production,



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom<sup>1</sup>, Council Directive 2014/87/Euratom<sup>2</sup> or Council Directive 2013/51/Euratom<sup>3</sup>, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;</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 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>processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material falling within the scope of Council Directive 2013/59/Euratom<sup>1</sup>, <del>Council Directive 2014/87/Euratom<sup>2</sup></del> or Council Directive 2013/51/Euratom<sup>3</sup>, which causes or is likely to cause death or serious <del>injury</del> <u>harm</u> to any person's <u>health</u> 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;</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><del>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).</del></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–</p>	<p>processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material <del>falling or substances, when such a conduct and such a material or substance fall</del> within the scope of Council Directive <del>2013/59/Euratom<sup>1</sup>, 2013/59/ Euratom<sup>1</sup> or Council Directive 2014/87/Euratom<sup>2</sup> or Council Directive 2013/51/Euratom<sup>3</sup>, which 2014/87/ Euratom<sup>2</sup>, and when such a conduct</del> 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 Community framework for the nuclear safety of nuclear installations (OJ L 219, 25.7.2014, p. 42–52).</p> <p><del>3. Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements</del></p>	<p>processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material <del>falling or substances, when such a conduct and such a material or substance fall</del> within the scope of Council Directive 2013/59/Euratom<sup>1</sup>, Council Directive 2014/87/Euratom<sup>2</sup> or Council Directive 2013/51/Euratom<sup>3</sup>, <u>and when such a conduct</u> 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 <u>an ecosystem</u>, 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 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</p>



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		21).	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).	general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12–21).  Horizontal alignment  Text Origin: Commission Proposal
Article 3(1), point (k)				
85	(k) the abstraction of surface water or groundwater which causes or is likely to cause substantial damage to the ecological status or potential of surface water bodies or to the quantitative status of groundwater bodies;	(k) the abstraction of surface water or groundwater <u>within the meaning of Directive 2000/60/EC</u> 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;	(k) the abstraction of surface water or groundwater <b>within the meaning of Directive 2000/60/EC<sup>1</sup></b> 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;  <u>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).</u>	(k) the abstraction of surface water or groundwater <u>within the meaning of Directive 2000/60/EC<sup>1</sup></u> 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;  <u>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).</u>  Text Origin: Council Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 3(1), point (l)			
86	<p>(l) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC<sup>1</sup> and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>2</sup>, 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>(l) the killing, destruction, taking of, possession, sale or offering for sale, <u>including online</u>, of a specimen or specimens of wild fauna or flora species listed in Annexes IV and V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC<sup>1</sup> and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>2</sup>, 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 of wild birds (OJ L 20, 26.1.2010, p. 7–25).</p>	<p>(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 <del>and</del> <u>or</u> V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC<sup>1</sup> and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>2</sup>, 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>(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 <del>and</del> <u>or</u> V (when species in Annex V are subject to the same measures as those adopted for species in Annex IV) to Council Directive 92/43/EEC<sup>1</sup> and the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council<sup>2</sup>, 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><u>Text Origin: Council Mandate</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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 338/97<sup>1</sup>, 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 338/97<sup>1</sup>, <u>and imports of specimens of such species, parts or derivatives thereof listed in Annex C of that Regulation</u> <del>except for cases where the conduct concerns a negligible quantity of such specimens;</del></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 338/97<sup>1</sup>, 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 338/97<sup>1</sup>, <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>Text Origin: EP Mandate</p>
	Article 3(1), point (n)			
88	<p>(n) the placing or making available on the Union market of illegally harvested timber or of timber products that were made of</p>	<p>(n) the placing or making available on the Union market <del>of illegally harvested timber or of timber products that were made of</del></p>	<p>(n) the placing <del>or making available</del> on the Union market of illegally harvested timber, or of timber products <del>that were made of</del></p>	<p>(n) the placing or making available on the Union market <del>of illegally harvested timber or of timber products that were made of</del></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>illegally harvested wood, falling within the scope of Regulation (EU) No 995/2010 of the European Parliament and of the Council<sup>1</sup>, except for cases where the conduct concerns a negligible quantity; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.]</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><del>illegally harvested wood</del><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) <del>No 995/2010</del><u>.../...</u> of the European Parliament and of the Council<sup>1</sup><del>; except for cases where the conduct concerns a negligible quantity; If a Regulation on the</del><sup>+</sup><u>, where the conditions referred to in Article 3 of that Regulation for such placing or</u> making available on the <del>Union market as well as</del><u>, 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.<u>], are not met, except for cases where the conduct concerns a negligible quantity;</u></u></p> <p><del>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</del></p>	<p>illegally harvested wood, falling within the scope of <del>derived from</del> 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<sup>1</sup>, except for cases where the conduct concerns a negligible quantity; [If a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 is adopted before this Directive, point (n) to be replaced with a criminal offence within the scope of Article 3 of that Regulation.] 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</p>	<p><del>illegally harvested wood, falling within the scope</del><u>or the export from the Union market of relevant commodities and relevant products in breach of the prohibition set out in Article 3</u> of Regulation (EU) <del>No 995/2010</del><u>2023/1115</u> of the European Parliament and of the Council<sup>1</sup><u>of 31 May 2023</u>, except for cases where the conduct concerns a negligible quantity; <del>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.</del></p> <p><del>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).</del></p> <p>While the text of line 88 is considered agreed, the corresponding recital</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><del>295, 12.11.2010, p. 23–34).</del></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>	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>requires further reflection. The latest proposal from the Commission:</p> <p>With regard to the determination of whether the quantity of a relevant product or relevant commodity associated with deforestation or forest degradation is negligible or non-negligible, Member States could take into account for example the quantity in net mass, or, where applicable, volume or number of items. Such assessment should also take into account, where relevant, other criteria listed in this Directive, including the conservation status of the species concerned or the cost of restoration of environmental damage.</p>
Article 3(1), point (o)				
89	(o) any conduct which causes the deterioration of a habitat within a protected site, within the meaning of Article 6(2) of the Directive 92/43/EEC, when this deterioration is significant;	(o) any conduct which causes the deterioration of a habitat within a <del>protected site, within the meaning of</del> <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> <sup>+</sup> , when this deterioration	(o) any conduct which causes the deterioration of a habitat, <b>or the disturbance of animal species listed in Annex II (a) of Council Directive 92/43/EEC<sup>1</sup></b> , within a protected site, within the meaning of Article 6(2) of <del>the that</del> Directive 92/43/EEC, when this deterioration <b>or disturbance</b> is significant. <b>Habitat within a</b>	(o) any conduct which causes the deterioration of a habitat, <u>or the disturbance of animal species listed in Annex II (a) of Council Directive 92/43/EEC<sup>1</sup></u> , within a protected site, within the meaning of Article 6(2) of <del>the that</del> Directive <del>92/43/EEC</del> , when this deterioration <u>or disturbance</u> is significant. <u>Habitat within a</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p>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>protected site means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>3</sup> 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 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>	<p><u>protected site means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC of the European Parliament and of the Council<sup>3</sup> 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 4(2) of Council Directive 92/43/EEC;</u></p> <p><u>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).</u></p> <p><u>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).</u></p> <p>Text Origin: Council Mandate</p>
	Article 3(1), point (p)			
90	(p) introduction or spread of	(p) introduction or spread of	(p) <del>introduction</del> bringing into the	(p) <del>introduction</del> bringing into the

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	invasive alien species of Union concern when:	invasive alien species of Union concern when:	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 species of Union concern when:	<u>territory of the Union, placing on the market, keeping, breeding, transport, use, exchange, permitting to reproduce, grow or cultivate, releasing into the environment,</u> or spread of invasive alien species of Union concern when:  Text Origin: Council Mandate
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 Council<sup>1</sup>;</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 Council<sup>1</sup>;</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 Council<sup>1</sup> <b>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;</b></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>	

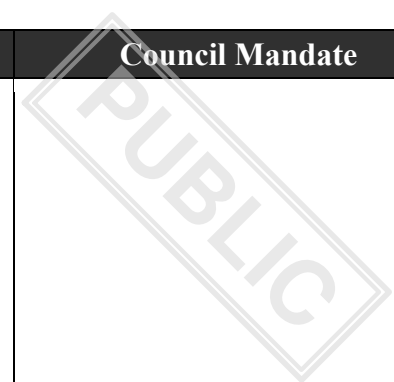


	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 3(1), point (p)(ii)			
92	(ii) the conduct breaches a condition of permit issued under Article 8 or of authorisation granted under Article 9 of Regulation (EU) No 1143/2014 and causes or is likely to cause death or serious injury 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;	(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 <u>an ecosystem</u> , animals or plants;  Text Origin: Council Mandate
	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 <sup>1</sup> or of products and equipment containing or relying on such	(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 Council <sup>1</sup> or of products and equipment containing or relying on	(q) production, placing on the market, import, export, <del>use, emission or release or use</del> of ozone depleting substances as defined in Article 3 (4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council <sup>1</sup> or <b>production, placing on the market, import or export of</b>	EP supports CNL text in principle, however the text to be looked again once an agreement is struck on ozone depleting substances for "export, use, emissions".

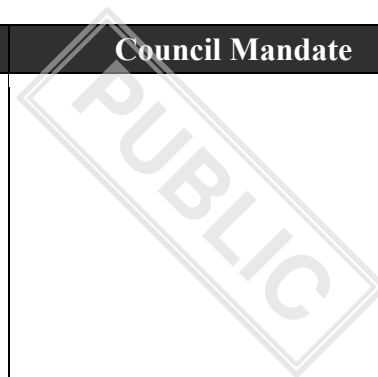


	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>substances;</p> <p>1. Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1–30)</p>	<p>such substances;</p> <p>1. Regulation (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>products and equipment containing or relying on such substances; <b>[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.]</b></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	<p>(r) production, placing on the market, import, export, use, emission or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council<sup>1</sup> or of products and equipment containing or relying on such gases.</p> <p>1. Regulation (EU) No 517/2014 of the</p>	<p>(r) production, placing on the market, import, export, use, emission or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council<sup>1</sup> or of products and equipment containing or relying on such gases.</p> <p>1. Regulation (EU) No 517/2014 of the</p>	<p>(r) <del>production</del>, placing on the market, import, <del>export, use, emission</del> use or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council<sup>1</sup> or <b>placing on the market or import</b> of products and equipment containing or relying on such gases. <b>[If a Regulation on fluorinated greenhouse gases</b></p>	<p>(r) <del>production</del>, placing on the market, import, <del>export, use, emission</del> use or release of fluorinated greenhouse gases as defined in Article 2 (1) of Regulation 517/2014 of the European Parliament and of the Council<sup>1</sup> or <u>placing on the market or import</u> of products and equipment containing or relying on such gases. <u>[If a Regulation on fluorinated greenhouse gases</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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).	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><b>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.]</b></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><u><b>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.]</b></u></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>Agreed in principle but to be revisited once an agreement is found on F-gases for "export, use, emissions".</p> <p>Text Origin: Council Mandate</p>
Article 3(1), point (ra)				
94a		<p><u><b>(ra) a serious infringement within the meaning of Article 90(1) of Council Regulation (EC) No 1224/2009<sup>1a</sup> and Article 42 of Council Regulation (EC) No 1005/2008<sup>1b</sup>;</b></u></p> <p><u><b>1a. Regulation (EC) No 1224/2009 of 20</b></u></p>		<p><u><b>(ra) s</b></u></p> <p>EP agrees to delete the amendment only if a recital is added on a need to act strong in this field.</p>



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<p><u>November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343 22.12.2009, p. 1).</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>		
	Article 3(1), point (rb)			
Y	94b	<p><u>(rb) any conduct that causes a forest fire or a significant deterioration of more than one hectare of forest;</u></p>		Y
	Article 3(1a)			
Y	94c			Y



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>1a. Member States shall ensure that any conduct which causes or is likely to cause death or serious harm to any person's health or substantial damage to the quality of air, the quality of soil or the quality of water, biodiversity, ecosystem services and functions, or to animals or plants constitutes a criminal offence when it is unlawful and committed intentionally. Member States shall ensure that any conduct causing severe and widespread, or severe and long-term, or severe and irreversible damage is treated as an offence of particular gravity and sanctioned as such in accordance with the legal systems of the Member States.</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, <del>points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r)</del> <u>or paragraph 1a</u> also constitutes a criminal offence, when committed with at least serious negligence.	<del>23.</del> 23. Member States shall ensure that the conduct referred to in paragraph <del>12</del> 2, points (a), (b), (c), <del>(d)</del> (c)bis, (e), (f), (h), (i), (i)bis, (j), (k), (l), (m), (n), <del>(p)</del> (ii)(o),- (q), (r) also constitutes a criminal offence, when committed with at least serious negligence.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 3(2a)(3)			
96	<p>3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):</p>	<p>3. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):</p>	<p><del>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 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).</del></p> <p><b>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:</b></p>	<p>3. Member States shall ensure <del>that</del> <del>their national legislation specifies that</del> <u>that one or more of</u> the following elements shall be taken into account, where relevant, when assessing whether the damage or likely damage is substantial for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1, points (a) to (e), (i), (j), (k) and (p):</p> <p>to be checked also for lines 102 and 106.</p> <p>Final references to be discussed later.</p> <p>Text Origin: Commission Proposal</p>
	Article 3(2a)(3), point (a)			
97	<p>(a) the baseline condition of the affected environment;</p>	<p>(a) the baseline condition of the affected environment;</p>	<p>(a) the baseline condition of the affected environment;</p>	<p>(a) the baseline condition of the affected environment;</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 3(2a)(3), 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;  Text Origin: Commission Proposal
Article 3(2a)(3), point (c)				
99	(c) severity of the damage;	(c) severity of the damage;	<i>deleted</i>	<i>deleted</i>
Article 3(2a)(3), point (d)				
100	(d) spread of the damage;	(d) spread of the damage, <u>including any potential cross-border nature</u> ;	<del>(d)</del> (c) spread of the damage;	(d) spread of the damage;  Text Origin: Commission Proposal
Article 3(2a)(3), [(e)]				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
101	(e) reversibility of the damage.	(e) reversibility of the damage.	(e)(d) reversibility of the damage.	<del>[(e)](e)</del> reversibility of the damage.  Text Origin: Council Mandate
Article 3(3), first subparagraph, point (ea)				
101a		<u>(ea) any financial benefits derived from the damage caused by the perpetrators;</u>		
Article 3(2a)(3), point (ea)				
101b		<u>(eb) the duration of the infringement or non-compliance;</u>		deleted  Text Origin: EP Mandate
Article 3(2a)(3), point (eb)				
101c		<u>(ec) the conservation status of the species, populations or habitats, ecosystems and natural resources affected;</u>		deleted

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 3(3), first subparagraph, point (ed)				
101d		<u>(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.</u>		
Article 3(3), subparagraph 1 a				
101e		<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 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.</u>		EP ready to drop the amendment, if qualifiers are added to all relevant offences.



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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 paragraph 1, points (a) to (e), (i), (j), (k) and (p):	4. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account, <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 and adjudication of offences referred to in <del>paragraph 1, points (a) to (e), (i), (j), (k) and (p)</del> <u>paragraphs 1</u> :	<del>45. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing</del> <b>In order to assess</b> whether the activity is likely to cause damage to the quality of air, the quality of soil or the quality <b>or status</b> of water, or to animals or plants <del>for the purposes of the investigation, prosecution and adjudication of offences referred to in</del> <b>within the meaning of</b> paragraph <del>1</del> <b>2</b> , points (a) to <b>(d)</b> , <b>(e) (ii)</b> (e), (i), <b>(i)bis</b> , (j), (k) and (p) <b>(i) and (ii), one or more of the following elements shall be taken into account, where relevant:</b>	
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	(a) the conduct relates to an activity which is considered as risky or dangerous <b>for the environment or human health</b> , and requires an authorisation	(a) the conduct relates to an activity which is considered as risky or dangerous <u>for the environment or human health</u> , <u>and</u> requires an authorisation

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		with;	which was not obtained or complied with;	<p>which was not obtained or complied with;</p> <p>Agreed recital on "updated":</p> <p>Where this Directive refers to a requirement to obtain an authorisation and comply with it, this should also cover obligations of the duty-holder to update and renew such authorisations.</p> <p>Text Origin: Council Mandate</p>
	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 <b>one of the acts listed under paragraph 1, points (a) or (b),</b> <del>legal acts</del> or in an authorisation issued for the activity are exceeded;	<p>(b) the extent to which the values, parameters or limits set out in <u>one of the acts listed under paragraph 1, points (a) or (b),</u> <del>legal acts</del> or in an authorisation issued for the activity are exceeded;</p> <p>Text Origin: Council Mandate</p>
	Article 3(4), point (c)			
105				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(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.  Text Origin: Commission Proposal
Article 3(4a)(5)				
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):	<del>56. Member States shall ensure that their national legislation specifies that the following elements shall be taken into account when assessing</del> <b>In order to assess</b> whether the quantity is negligible or non-negligible <del>for the purposes of the investigation, prosecution and adjudication of offences referred to in paragraph 1</del> <b> within the meaning of paragraph 2</b> , points (e) <b>(i)</b> , (f), (l), (m), (n), <b>one or more of the following elements shall be taken into account, where relevant:</b>	
Article 3(4a)(5), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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;  Text Origin: Commission Proposal
Article 3(4a)(5), 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 <del>the</del> <b>a</b> regulatory threshold, value or another mandatory parameter <b>foreseen in one of the acts listed under paragraph 1, points (a) or (b)</b> , is exceeded;	(b) the extent to which <del>the</del> <u>a</u> regulatory threshold, value or another mandatory parameter <u>foreseen in one of the acts listed under paragraph 1, points (a) or (b)</u> , is exceeded;  Text of the recital agreed:  Where, for the purpose of assessing whether a conduct concerns non-negligible quantity, this Directive refers to the extent to which the regulatory threshold, value or another mandatory parameter is exceeded, this should among other things cover assessment of hazardousness and toxicity. In particular, the more hazardous or toxic the material or substance is, the sooner this threshold

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>would be reached, as for particularly hazardous and toxic substances or materials even a very small quantity can cause substantial damage to the environment or human health.</p> <p>Text Origin: Council Mandate</p>
	Article 3(4a)(5), point (c)			
G	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;	<p>(c) the conservation status of the fauna or flora species concerned;</p> <p>Text Origin: Commission Proposal</p>
	Article 3(4a)(5), point (d)			
G	110	(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>	<p>(d) the cost of restoration of environmental damage, <u>when feasible to assess.</u></p> <p>Text Origin: Council Mandate</p>
	Article 3(5), subparagraph 1a			
Y	110a			Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<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>		EP ready to drop the amendment, if qualifiers are added to all relevant offences.
	Article 3(5a)			
Y	110b	<u>5a. Member States shall ensure that from the moment a conduct becomes unlawful, the perpetrator cannot invoke the issuance of an authorisation in order to avoid criminal liability.</u>		
	Article 4			
G	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  Text Origin: Commission

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Proposal
	Article 4(1)			
Y	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>and (1a)</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 <b>committed intentionally</b> referred to in Article 3(1) <b>3(2)</b> are punishable as criminal offences.	EP agrees with “committed intentionally” but references to be discussed later.
	Article 4(2)			
Y	113 2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r) when committed intentionally is punishable as a criminal offence.	2. Member States shall take the necessary measures to ensure that an attempt to commit any of the criminal offences referred to in Article 3 (1) <del>points (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (m), (n), (p) (ii), (q), (r)</del> when committed intentionally is punishable as a criminal offence, <u>where relevant</u> .	2. Member States shall take the necessary measures to ensure that an attempt to commit <b>intentionally</b> any of the criminal offences referred to in Article 3 <del>(1)</del> <b>(2)</b> points (a), (b), (c), <del>(d)</del> <b>(c)bis</b> , (e), (f), (h), (i), <b>(i)bis</b> , (j), (k), (m), (n), (p) <b>(i) and (ii)</b> , (q), (r) <del>when committed intentionally</del> is punishable as a criminal offence.	EP ready to accept “intentionally” and to restore enumeration of letters, but content to be discussed (in favour of restoring letter d).  EP ok to delete “where relevant”
	Article 5			
G	114			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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.	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.  Text Origin: Commission Proposal
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 <del>injury</del> <u>harm</u> to any person <u>'s health</u> .	2. Member States shall take the necessary measures to ensure that offences referred to in Article <del>33(2) points (a), (b), (c), (c)bis, (e), (i), (i)bis, (j), and (p)</del> are punishable by a maximum term of imprisonment of at least ten years if they cause <del>or are likely to cause death or serious injury</del> to any person.	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 5(2a)				
Y	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.	
Article 5(3)				
Y	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)				
Y	118	4. Member States shall take the	4. Member States shall take the	45. Member States shall take the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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.	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.	necessary measures to ensure that the offences referred to in Article <del>3(1)</del> <b>3(2)</b> points (k), (l), (m), (o), <b>and</b> (p) are punishable by a maximum term of imprisonment of at least <del>four</del> <b>three</b> years.	
Article 5(4a)				
118a		<u>4a. Member States shall take the necessary measures to develop 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:	<del>56.</del> 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 <b>criminal or non-criminal</b> sanctions or measures which <del>shall</del> <b>may</b> include:	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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 if the damage is irreversible;</u>	(a) obligation to reinstate the environment within a given time period, <b>provided that the damage is reversible, or, where the damage is irreversible, the obligation to compensate costs linked to the damage to the environment;</b>	(a) obligation to reinstate the environment within a given <del>time period;</del> <u>period, provided that the damage is reversible, or, the obligation to compensate for the damage to the environment if the damage is irreversible or if the perpetrator is not in a capacity to carry out such a reinstatement.</u>  Council checking
	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;	(b) <u>fines, which shall be proportionate to the seriousness of the conduct and to the financial and other individual circumstances of the natural person concerned. Where relevant, due account shall also be taken of the gravity and duration of the damage caused to the environment and of the financial benefits generated from the offence;</u> <del>fines;</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Council will check
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> <del>and concessions</del> ;	(c) temporary or permanent exclusions from access to public funding, including tender procedures, grants and concessions;	(c) <del>temporary or permanent</del> exclusions from access to public funding, including tender procedures, grants, <u>concessions and licences</u> <del>and concessions</del> ;  Text Origin: EP Mandate
Article 5(5), point (d)				
123	(d) disqualification from directing establishments of the type used for committing the offence;	(d) disqualification from <del>directing establishments</del> <u>exercising a leading position within a legal person</u> of the type used for committing the offence;	(d) disqualification from directing establishments of the type used for committing the offence;	(d) disqualification from <del>directing establishments</del> <u>exercising a leading position within a legal person</u> of the type used for committing the offence;  Text Origin: EP Mandate
Article 5(5), point (e)				
124	(e) withdrawal of permits and	(e) withdrawal of permits and	(e) withdrawal of permits and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	authorisations to pursue activities which have resulted in committing the offence;	authorisations to pursue activities which have resulted in committing the offence;	authorisations to pursue activities which have resulted in committing the offence;	
Article 5(5), point (f)				
G 125	(f) temporary bans on running for elected or public office;	(f) temporary bans on running for elected or public office;	deleted	(f) temporary bans on running for <del>elected or</del> public office;  Text Origin: Commission Proposal
Article 5(5), point (g)				
Y 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.	deleted	(g) <del>national or Union-wide</del> <u>where there is a public interest, publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed following a case-by-case assessment. The personal data of convicted persons may be published only in duly justified exceptional cases.</u> <del>publication of the judicial decision relating to the conviction or any sanctions or measures applied.</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>Council checking the recital:</p> <p>The publication of personal data of convicted persons contained in judicial decisions should only occur in duly justified exceptional cases following a case-by-case assessment, weighing the public interest against the rights to privacy and protection of the personal data of the convicted person as provided for in Articles 7 and 8 of the Charter respectively. Therefore, the publication of personal data should only be considered in cases of serious offences and where strong dissuasive effects are needed. The case-by-case assessment could take into account elements such as the seriousness of the damage caused to the environment and/or the harm suffered by natural persons, whether the offence has been committed repeatedly in a specific environmental sector, whether the offence was committed by or for the benefit of a large corporation active in several Member States or an important market player in the specific sector. Any processing of personal data in the context of this Directive should comply with the applicable Union and Member States data protection</p>



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				legislation, in particular Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and Directive (EU) 2016/680. on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data. This includes an obligation for Member States to provide for appropriate safeguards for the rights and freedoms of data subjects when publishing all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed.
	Article 5(5), point (ga)			
Y	126a	<u>(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.</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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:	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:  Text Origin: Commission Proposal
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;	(a) a power of representation of the legal person <sup>1</sup> .



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 6(1), point (b)				
G 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;	(b) an authority to take decisions on behalf of the legal person <del>;</del> <u>or</u>  Text Origin: EP Mandate
Article 6(1), point (c)				
G 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.	(c) an authority to exercise control within the legal person.  Text Origin: Commission Proposal
Article 6(1), point (ca)				
Y 131a		<u>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</u>		<i>deleted</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u><i>harm or damage they cause as a result of that offence, and, in conformity with national law, can be required to compensate the persons who have suffered that harm or damage.</i></u>		<p><i>Council checking the recital:</i></p> <p><i>This Directive should not preclude the civil liability of a legal person in accordance with national law or the obligation of a legal person to compensate for harm or damage caused as a result of a specific offence referred to in this Directive in accordance with Union or national law.</i></p> <p><i>Text Origin: EP Mandate</i></p>
<b>Article 6(2)</b>				
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.	<p>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.</p> <p><i>Text Origin: Commission Proposal</i></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 6(3)			
Y	133 3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons, <u>including corporate board members</u> , who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.	
	Article 7			
G	134 Article 7 Sanctions for legal persons	Article 7 Sanctions for legal persons	Article 7 Sanctions for legal persons	
	Article 7(1)			
Y	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</u> . <u>The level of sanctions shall be proportionate and adapted to reflect the degree of severity and</u>	1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) <b>or (2)</b> is punishable by effective, proportionate and dissuasive <b>criminal or non-criminal</b> sanctions <b>or measures</b> .	EP ok to drop the last sentence.  Institutions agree in principle to keep both 6(1) and 6(2)

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>duration of the damage caused.</u>		
Article 7(2)				
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 <u>held</u> 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) <b>or (2)</b> for the offences referred to in Articles 3 and 4 shall include <b>criminal or non-criminal fines and may include other criminal or non criminal sanctions or measures, such as:</b>	Institutions agree in principle to keep both 6(1) and 6(2) . Agreement on adding "held".
Article 7(2), point (a)				
137	(a) criminal or non-criminal fines;	(a) criminal or non-criminal 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>	deleted	
Article 7(2), point (b)				
138	(b) the obligation to reinstate the	(b) the obligation to reinstate the	<del>(b)</del> (a) the obligation to reinstate	(b) <del>the</del> obligation to reinstate the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	environment within a given period;	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>	the environment within a given period, <b>provided that the damage is reversible</b> , or, where the damage is irreversible, the obligation to compensate costs linked to the damage to the environment;	environment within a given period, <u>provided that the damage is reversible, or, the obligation to compensate for the damage to the environment if the damage is irreversible or if the perpetrator is not in a capacity to carry out such a reinstatement;</u>  Council checking
Article 7(2), point (c)				
139	(c) exclusion from entitlement to public benefits or aid;	(c) exclusion from entitlement to public benefits or aid;	<del>(c)</del> (b) exclusion from entitlement to public benefits or aid;	(c) exclusion from entitlement to public benefits or aid;  Text Origin: Commission Proposal
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> <del>and concessions</del> ;	<del>(d)</del> (c) temporary exclusion from access to public funding, including tender procedures, grants and concessions;	(d) <del>temporary exclusion</del> <u>exclusions</u> from access to public funding, including tender procedures, grants, <u>concessions and licences</u> <del>and concessions</del> ;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 7(2), point (e)				
141	(e) temporary or permanent disqualification from the practice of business activities;	(e) temporary or permanent disqualification from the practice of business activities;	<del>(e)</del> (d) temporary or permanent disqualification from the practice of business activities;	(e) temporary or permanent disqualification from the practice of business activities;  Text Origin: Commission Proposal
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;	<del>(f)</del> (e) 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;  Text Origin: Commission Proposal
Article 7(2), point (g)				
143	(g) placing under judicial supervision;	(g) placing under judicial supervision;	<del>(g)</del> (f) placing under judicial supervision;	(g) placing under judicial supervision;  Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 7(2), point (h)			
G	144	(h) judicial winding-up;	(h)(g) judicial winding-up;	(h) judicial winding-up;  Text Origin: Commission Proposal
	Article 7(2), point (i)			
G	145	(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;	(i) <del>temporary or permanent</del> closure of establishments used for committing the offence;  Text Origin: Council Mandate
	Article 7(2), point (j)			
Y	146	(j) obligation of companies to install due diligence schemes for enhancing compliance with environmental standards;	deleted	
	Article 7(2), point (k)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	147 (k) publication of the judicial decision relating to the conviction or any sanctions or measures applied.	(k) <u>national or Union-wide</u> publication of the judicial decision relating to the conviction or any sanctions or measures applied, <u>including by referring them to relevant Union institutions</u> .	<del>(k)</del> (i) publication of the judicial decision relating to the conviction or any <b>all or part of the decision imposing the</b> sanctions or measures applied.	COM proposal: Where there is a public interest, publication of all or part of the judicial decision that relates to the criminal offence committed and the sanctions or measures imposed, without prejudice to the privacy and the protection of personal data.
Article 7(3)				
G	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.	deleted	deleted	3. <del>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.</del> <u>deleted</u>
Article 7(3a)				
Y	148a		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	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			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:	
Article 7(3b)				
148b			(a) 5% 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 (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),	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(o), and (p);	
	Article 7(3c)			
Y	148c		or, alternatively	Y
	Article 7(3d)			
Y	148d		(b) an amount corresponding to EUR 40 million for offences referred to in Article 3(2) points (a) to (j), (n), (q), and (r), and EUR 24 million for offences referred to in Article 3(2) points (k), (l), (m), (o), and (p).	Y
	Article 7(3e)			
Y	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	Y

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			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 offences referred to in Article 3(1) points (a) to (j), (n), (q), (r) are punishable by fines, the maximum limit of which shall be not less than 5% of the total worldwide turnover of the legal person [/undertaking] in the business year preceding the fining decision.	4. Member States shall take the necessary measures to ensure that offences referred to in Article 3(1) points (a) to (j), (n), (q), (r) are punishable by <u>proportionate</u> fines, the maximum limit of which shall be not less than <del>5%</del> <u>10%</u> of the <del>total</del> <u>average</u> worldwide turnover of the legal person <del>/undertaking/</del> in the <u>three</u> business <del>year</del> <u>years</u> preceding the fining decision.	<i>deleted</i>	
Article 7(5)				
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	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 <del>3%</del> <u>10%</u> of the <del>total</del> <u>average</u> worldwide turnover of the legal person <del>/undertaking/</del>	<i>deleted</i>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	fining decision.	in the <u>three</u> business <del>year</del> <u>years</u> preceding the fining decision.		
Article 7(6)				
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.	deleted	
Article 8				
152	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances	Article 8 Aggravating circumstances	
Article 8, first paragraph				
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	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	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	COM proposed changes to recital 16. CNL insists on its position.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, the following circumstances may be regarded as aggravating circumstances:	the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, the following circumstances may be regarded as aggravating circumstances:	the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 3 and 4, <b>one or several of</b> the following circumstances may, <b>in accordance with the relevant provisions of national law</b> , be regarded as aggravating circumstances:	
Article 8, first paragraph, point (a)				
Y	154	(a) the offence caused the death of, or serious injury to, a person;	(a) the offence caused <del>the death of,</del> or serious <del>injury to, a</del> <u>harm to any person's health</u> ;	<i>deleted</i>
Article 8, first paragraph, point (b)				
G	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, <u>or to protected species referred to in Article 3(1) points (l) and (m)</u> ;	(b) <u>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 or substantial damage to protected species referred to in Article 3(1) points (l) and (m)</u> <del>the offence caused destruction or irreversible or long-lasting substantial damage to an</del>
			<p>(b)(a) the offence caused destruction or irreversible or long-lasting substantial damage to an ecosystem <b>as defined in Article 2(13) of Regulation (EU) 2020/852<sup>1</sup></b>;</p> <p>1. Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13–43).	<del>ecosystem;</del>  Finalization process to determine if this is point (a) or (b) and if it refers to Article 3(1) or 3(2).
Article 8, first paragraph, point (c)				
156	(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA <sup>1</sup> ;  1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.	(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA <sup>1</sup> <u>or involved corruption, money laundering, fraud, extortion, coercion or other forms of intimidation</u> ;  1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.	<del>(e)</del> (b) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA <sup>1</sup> ;  1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.	(c) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA <sup>1</sup> ;  1. Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42.  Text Origin: Commission Proposal
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, <u>or breached a condition of authorisation</u> ;	<del>(d)</del> (c) the offence involved the use of false or forged documents <b>by the offender</b> ;	(d) the offence involved the use <u>by the offender</u> of false or forged documents;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
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;	(e) the offence was committed by a public official when performing his/her duties;  Text Origin: Commission Proposal
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; <b>has previously been definitively convicted of offences of the same nature under Article 3 or 4</b>	(f) the offender <del>committed similar previous infringements of environmental law;</del> <u><b>has previously been definitively convicted of offences of the same nature under Article 3 or 4</b></u>  Text Origin: Council Mandate
Article 8, first paragraph, point (g)				
160	(g) the offence generated or was expected to generate substantial	(g) the offence generated or was expected to generate substantial		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	financial benefits, or avoided substantial expenses, directly or indirectly;	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/EC<sup>1</sup>;</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/EC<sup>1</sup>;</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>	
<i>Article 8, first paragraph, point (i)</i>				
162	<p>(i) the offender does not provide assistance to inspection and other enforcement authorities when legally required;</p>	<p>(i) the offender does not provide assistance to inspection and other enforcement authorities when legally required;</p>	<i>deleted</i>	
<i>Article 8, first paragraph, point (j)</i>				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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>destroys evidence</u> , or intimidates or interferes with witnesses or complainants.	deleted	Council to send a text of a recital
Article 8, first paragraph, point (ja)				
163a		<u>(ja) the offence was committed within a protected area.</u>		<u>(ja) the offence was committed within an area 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, or a site designated as a special area of conservation in accordance with Article 4(4) of Council Directive 92/43/EEC or a site listed as site of Community importance in accordance with Article 4(2) of Council Directive 92/43/EEC.</u>  Text Origin: EP Mandate
Article 9				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	164  Article 9 Mitigating circumstances	Article 9 Mitigating circumstances	Article 9 Mitigating circumstances	
Article 9, first paragraph				
Y	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, <b>one or several of</b> the following circumstances may, <b>in accordance with the relevant provisions of national law</b> , be regarded as mitigating circumstances:	The same as introduction to Art. 8
Article 9, first paragraph, point (a)				
G	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, <b>when this is not an obligation under Directive 2004/35/EC<sup>1</sup></b> ;  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	(a) the offender restores nature to its previous condition, <u>when this is not an obligation under Directive 2004/35/EC<sup>1</sup>, or, before the start of a criminal investigation, takes steps to minimize the impact and extend of the damage or remediates the damage</u> ;  <u>1. Directive 2004/35/CE of the European</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(OJ L 143, 30.4.2004, p. 56–75).	<a href="#"><u>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).</u></a>  Text Origin: Council Mandate
Article 9, first paragraph, point (aa)				
166a		<a href="#"><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></a>		deleted  Text Origin: EP Mandate
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:	(b) the offender provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:  Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 9, first paragraph, point (b)(i)			
G	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;  Text Origin: Commission Proposal
	Article 9, first paragraph, point (b)(ii)			
G	169	(ii) find evidence.	(ii) find evidence.	(ii) find evidence.  Text Origin: Commission Proposal
	Article 9a			
Y	169a		<u>Article 9a</u> <u>Precautionary measures</u>	
	Article 9a(1)			
Y	169b		<u>1. Member States shall take the</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>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>		
	Article 10			
G	170 Article 10 Freezing and confiscation	Article 10 Freezing and confiscation	Article 10 Freezing and confiscation	G
	Article 10, first paragraph			
Y	171 Member States shall take the necessary measures to ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council <sup>1</sup> , the proceeds derived from and instrumentalities used or intended to be used in the	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 Council <sup>1</sup> , <u>all</u> the proceeds derived from and instrumentalities used or intended to be used in the	Member States shall take the necessary measures to <del>ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with</del> <b>enable the freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 3 and 4.</b>	Member States shall take the necessary measures to <del>ensure, as appropriate, that their competent authorities may freeze or confiscate, in accordance with Directive 2014/42/EU of the European Parliament and of the Council<sup>1</sup>, the proceeds derived from and instrumentalities used or intended to be used in the</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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 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>commission or contribution to the commission of the offences as referred to in this Directive.</p> <p><u>Member States shall take the necessary measures to ensure that frozen and confiscated proceeds and instrumentalities are appropriately managed, in line with their nature, and, where possible, used to finance restoration of the environment or remediation of any damage caused, or to provide compensation for the environmental damage, in accordance with national law.</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><b>Member States bound by Directive 2014/42/EU of the European Parliament and of the Council<sup>1</sup>, the proceeds derived from and instrumentalities used or intended to be used in the commission or contribution to the commission of the offences as referred to in this shall do so in accordance with that Directive.</b></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><del>commission or contribution to the commission</del><u>enable the tracing, identifying, freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 3 and 4.</u></p> <p><u>Member States bound by Directive 2014/42/EU of the European Parliament and of the offences as referred to in this Council<sup>1</sup> shall do so in accordance with that Directive.</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>Council ready to accept "trace and identify"</p> <p>Commission ready to accept the Council formulation</p> <p>EP agrees to CNL formulation, to drop "all" and turn the last sentence into a recital for changes in line 204.</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
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)				
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 <del>commission</del> <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 <del>adjudication</del> <b>decision</b> 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	2. Member <del>State</del> <u>States</u> shall <del>the</del>	2. Member State shall <b>take</b> the	2. Member <del>State</del> <u>States</u> shall <del>the</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	necessary measures to enable the investigation, prosecution, trial and judicial decision:	<del>take</del> <u>take the</u> necessary measures to enable the investigation, prosecution, trial and judicial decision:	take necessary measures to enable the investigation, prosecution, trial and judicial decision:	<del>take</del> <u>take the</u> necessary measures to enable the investigation, prosecution, trial and judicial decision:  Text Origin: EP Mandate
Article 11(2), point (a)				
175	(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 <del>committed</del> <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, <del>when offences are punishable</del> ;	(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 <del>committed, when offences are punishable</del> <u>committed/discovered</u> ;  Text Origin: Council Mandate
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	(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	(b) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least <del>six</del> <u>five</u> years of imprisonment, for a period of at	



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	least six years from the time when the offence was committed, when offences are punishable;	least six years from the time when the offence was <del>committed</del> <u>discovered</u> , when offences are punishable;	least <del>six</del> <u>five</u> years from the time when the offence was committed; <del>when offences are punishable;</del>	
Article 11(2), point (c)				
Y	177 (c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least four years of imprisonment, for a period of at least four years from the time when the offence was committed, when offences are punishable.	(c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least four years of imprisonment, for a period of at least four years from the time when the offence was <del>committed</del> <u>discovered</u> , when offences are punishable.	(c) of offences referred to in Articles 3 and 4 which are punishable by a maximum sanction of at least <del>four</del> <u>three</u> years of imprisonment, for a period of at least <del>four</del> <u>three</u> years from the time when the offence was committed, <del>when offences are punishable.</del>	Y
Article 11(3)				
G	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>	<i>deleted</i> G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
<i>Article 11(4), first subparagraph</i>				
G 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:	
<i>Article 11(4), first subparagraph, point (a)</i>				
Y 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) <b>(i) a penalty of more than five years of imprisonment; or alternatively</b> <b>(ii)</b> 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;	
<i>Article 11(4), first subparagraph, point (b)</i>				
Y 181	(b) a penalty of imprisonment in the case of a criminal offence	(b) a penalty of imprisonment in the case of a criminal offence	(b) <b>(i) a penalty of more than one</b>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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 4, for at least six years from the date of the final conviction;	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 4, for at least six years from the date of the final conviction;	<b>year of imprisonment; or alternatively</b> <b>(ii)</b> a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least <del>six</del> <b>five</b> years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least <del>six</del> <b>five</b> years from the date of the final conviction; <b>and</b>	
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) <b>(i) a penalty of up to one year of imprisonment; or alternatively</b> <b>(ii)</b> a penalty of imprisonment in the case of a criminal offence which is punishable by a maximum sanction of at least <del>four</del> <b>three</b> years of imprisonment, imposed following a final conviction for a criminal offence referred to in Articles 3 and 4, for at least <del>four</del> <b>three</b> years from the date of the final conviction.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 11(4), second subparagraph			
Y	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>	Y
	Article 11(4a)			
Y	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.	4. <u>B</u>  Linked to 178 and 183  Text Origin: Council Mandate
	Article 12			
G	184 Article 12 Jurisdiction	Article 12 Jurisdiction	Article 12 Jurisdiction	G
	Article 12(1)			
G	185			G

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:	1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:	1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:	
	Article 12(1), point (a)			
G	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;	G
	Article 12(1), point (b)			
G	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;	G
	Article 12(1), point (c)			
Y	188	(c) the damage occurred on its territory;	(c) the damage <b>forming part of the constituent elements of the offence</b> occurred on its territory;	EP requests more information
	Article 12(1), point (d)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	189	(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.	EP proposed to exchange 189 (CNL) for 189a  Council could not agree
Article 12(1), point (da)				
Y	189a	<u>(da) the offence is committed for the benefit of a legal person established on its territory.</u>		
Article 12(2), first subparagraph				
G	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 <b>one or more</b> 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 <u>one or more</u> offences referred to in Articles 3 and 4 which have been committed outside its territory, where:  Text Origin: Council Mandate
Article 12(2), first subparagraph, point (-a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	190a		(a) the offender is one of its habitual residents;	
Article 12(2), first subparagraph, point (a)				
Y	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)				
G	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) the offence is committed against one of its nationals or its habitual residents;  Text Origin: Commission Proposal
Article 12(2), first subparagraph, point (c)				
G	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.	(e)(d) the offence has created a severe risk for the environment on its territory.

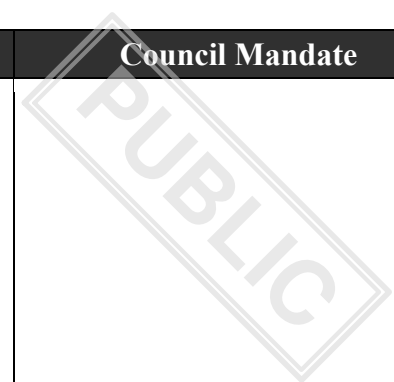
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
Article 12(2), second subparagraph				
194	<p>Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA<sup>1</sup>, 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>Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA<sup>1</sup>, 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>Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA<sup>1</sup>, 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>Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, these Member States shall cooperate to determine which Member State shall conduct criminal proceedings. The matter shall, where appropriate and in accordance with Article 12 of Council Framework Decision 2009/948/JHA<sup>1</sup>, 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>Text Origin: Commission Proposal</p>
Article 12(3)				
195				



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	3. In cases referred to in paragraph 1, points (c) and (d), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.	3. In cases referred to in paragraph 1, points (c) and (d), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.	3. In cases referred to in paragraph 1, points (c) and (d), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.	3. In cases referred to in paragraph 1, points (c) and (d), Member States shall take the necessary measures to ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.  Text Origin: Commission Proposal
Article 12a				
195a	Article 18 Investigative tools  Moved reference text		Article <del>18</del> 13 Investigative tools  Moved from row 207 [207 - 195a]  Moved from row 207	Article <del>18</del> 13 Investigative tools  Text Origin: Council Mandate
Article 12a, first paragraph				
195b	Member States shall take the necessary measures to ensure that		Member States shall take the necessary measures to ensure that	Member States shall take the necessary measures to ensure that

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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.</p> <p>Moved reference text</p>		<p>effective <b>and proportionate</b> investigative tools, <del>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</del> are 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>	<p>effective <u>and proportionate</u> investigative tools, <del>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</del> <u>are available for investigating or prosecuting offences referred to in Articles 3 and 4. Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.</u></p> <p>Text Origin: Commission Proposal</p>
Article 13				
196	<p>Article 13</p> <p>Protection of persons who report environmental offences or assist the investigation</p>	<p>Article 13</p> <p>Protection of persons who report environmental offences or assist the investigation</p>	<p>Article <del>13</del><b>14</b></p> <p>Protection of persons who report environmental offences or assist the investigation</p>	<p>Article <del>13</del><u>14</u></p> <p>Protection of persons who report environmental offences or assist the investigation</p> <p>Text Origin: Council Mandate</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 13(1)				
197	<p>1. Member States shall take the necessary measures to ensure that protection granted under Directive (EU) 2019/1937, is applicable to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.</p>	<p>1. Member States shall take the necessary measures to ensure that protection <del>granted</del> under Directive (EU) 2019/1937, <del>is applicable to</del> <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></p>	<p><del>1. Without prejudice to Directive (EU) 2019/1937,</del> Member States shall take the necessary measures to ensure that <del>protection granted under any</del> <b>persons reporting offences referred to in Articles 3 or 4 of this Directive (EU) 2019/1937,</b> 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.</p>	<p>1. <u>Without prejudice to Directive (EU) 2019/1937,</u> Member States shall take the necessary measures to ensure that <del>protection granted under any persons reporting offences referred to in Articles 3 or 4 of this</del> Directive, <u>providing evidence or otherwise cooperating with competent authorities, have access to support and assistance measures in the context of criminal proceedings, in accordance with national law (EU) 2019/1937, is applicable to persons reporting criminal offences referred to in Articles 3 and 4 of this Directive.</u></p> <p>Text Origin: Council Mandate</p>
Article 13(2)				
198	<p>2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and 4 of this</p>	<p>2. Member States shall take the necessary measures to ensure that persons reporting offences referred to in Articles 3 and 4 of this</p>	<p><i>deleted</i></p>	<p><i>deleted</i></p>



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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, in accordance with their national legal system.</u>		
Article 13(2a)				
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>		<i>deleted</i>  <i>COM proposal for recital 25a:</i>  <i>Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law obliges Member to establish internal and external reporting channels and to diligently follow up on such reports and provide protection against retaliation, if the conditions established therein are met. These obligations are without prejudice to the power of Member States to accept and follow-up also on anonymous</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			PUBLIC	<p>reports through these channels. Given the public interest in ensuring an effective investigation, prosecution and adjudication of environmental criminal offences, Member States could [consider to] enable persons to report environmental offences anonymously under the conditions of Directive (EU) 2019/1937, if this possibility does not yet exist in the Member States.</p> <p>EP can support this text if "could" is turned to "should"</p> <p>Text Origin: EP Mandate</p>
Article 14				
199	Article 14 Rights for the public concerned to participate in proceedings	Article 14 <del>Rights for</del> <u>Publication of information in</u> the public <del>concerned to participate in proceedings</del> <u>interest and access to justice for the public concerned</u>	Article 1415 Rights for the public concerned to participate in proceedings	
Article 14, first paragraph				
200				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>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.</p>	<p>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.</p>	<p>Member States shall ensure that, in accordance with their national legal system, members of the public concerned have appropriate rights to participate <del>the persons affected</del> 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 other criminal offences for instance as a civil party.</p>	<p><u>Member States shall ensure that the persons affected or likely to be affected by the offences referred to in Articles 3 or 4 of this Directive, persons having sufficient interest or maintaining the impairment of a right, as well as non-governmental organisations promoting environmental protection and meeting requirements under national law</u><del>Member States shall ensure that, in accordance with their national legal system, members of the public concerned</del> have appropriate <del>rights to participate</del> <u>procedural rights in proceedings concerning offences referred to in Articles 3 and 4 of this Directive, where such procedural rights for the public concerned exist in the Member State in proceedings concerning other criminal offences, for instance as a civil party. In such cases, Member States shall also ensure, in accordance with their national laws, that the information on the progress of the proceedings is shared with the public concerned, where this is also done in proceedings concerning other criminal</u></p>

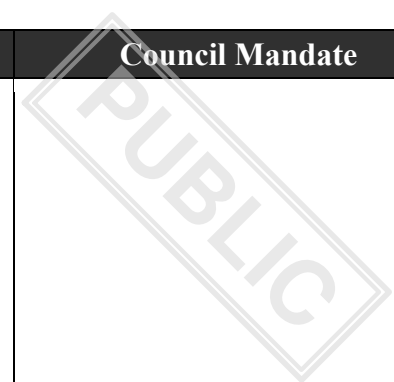
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>offences." in proceedings concerning offences referred to in Articles 3 and 4, for instance as a civil party.</i>
Article 14, first paragraph a				
200a		<p><u>Member States shall, in accordance with their national law, ensure that 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>		
Article 14, first paragraph a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G 200b		<u>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.</u>	PUBLIC	deleted  Text Origin: EP Mandate
Article 15				
G 201	Article 15 Prevention	Article 15 Prevention	Article <del>15</del> 16 Prevention	Article <del>15</del> 16 <del>Prevention</del>  Text Origin: EP Mandate
Article 15, first paragraph				
Y 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 becoming a victim of an environmental criminal offence.	Member States shall take appropriate action, such as information and awareness-raising campaigns <u>targeting all relevant stakeholders both from the public and private sector, effective law enforcement tools</u> , and research and education programmes, to reduce overall environmental criminal offences, raise public	Member States shall take appropriate action, such as information and awareness-raising campaigns and research and education programmes, to <del>reduce</del> <b>aimed at reducing</b> overall environmental criminal offences, <del>raise-raising</del> public awareness and <del>reduce-reducing</del> the risk of population-of becoming a victim	Member States shall take appropriate action, such as information and awareness-raising campaigns <u>targeting relevant stakeholders both from the public and private sector</u> and research and education programmes, <del>to</del> <b>aimed at reducing</b> overall environmental criminal offences, <del>raise-raising</del> public awareness and



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Where appropriate, Member States shall act in cooperation with the relevant stakeholders.	awareness and <u>seriously</u> reduce the risk of <del>population of becoming a victim of</del> an environmental criminal offence. Where appropriate, Member States shall act in cooperation with <del>the</del> <u>all</u> relevant stakeholders.	of an environmental criminal offence. Where appropriate, Member States shall act in cooperation with the relevant stakeholders.	<del>reduce</del> <u>reducing</u> the risk of <del>population of becoming a victim of</del> an environmental criminal offence. Where appropriate, Member States shall act in cooperation with <del>the</del> relevant stakeholders.  Awaiting Council confirmation  Text Origin: EP Mandate
Article 16				
203	Article 16 Resources	Article 16 Resources	Article <del>16</del> 17 Resources	Article <del>16</del> 17 Resources  Text Origin: Commission Proposal
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	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.	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	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

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.</p>	<p><u>including prosecutors and police authorities</u>, and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. <u>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.</u></p>	<p>and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.</p>	<p>and technological resources necessary for the effective performance of their functions related to the implementation of this Directive. <u>Member States shall, in accordance with national law, assess the need to strengthen specialization of these authorities in the area of environmental criminal law.</u></p> <p>COM proposal for a new text, as modified by the Parliament, accompanied by recitals 27 and 28:</p> <p>(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</p>



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p>established.</p> <p>(28) The effective functioning of the enforcement chain depends on a range of specialist skills. As the complexity of the challenges posed by environmental offences and the technical nature of such crime require a multidisciplinary approach, a high level of legal knowledge, technical expertise and financial support as well as a high level of training and specialisation within all relevant competent authorities are necessary. Member States should provide training appropriate to the function of those who detect, investigate, prosecute or adjudicate environmental crime. Member States should, in accordance with national law, assess the need to strengthen specialization of these authorities in the area of environmental criminal law. In particular, to maximise the professionalism and effectiveness of enforcement chain, Member States should also consider assigning specialised investigation units, prosecutors and criminal judges to deal with environmental criminal cases. General criminal courts could provide for specialised chambers of judges. Technical expertise should be made available to all relevant</p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				enforcement authorities.
Article 16, first paragraph a				
204a		<p><u>Where the environmental offences are suspected to be of a cross-border nature, competent authorities of Member States shall without delay refer the information related to these cases to appropriate bodies. In accordance with the applicable rules, Member States shall also cooperate through Union agencies, in particular Eurojust and Europol, as well as with Union bodies, including the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF), in their respective areas of competence.</u></p>		<p><u>W</u></p> <p>If the Council approves the text in 216b, this line is deleted.</p> <p>Text Origin: EP Mandate</p>
Article 17				
205	Article 17 Training	Article 17 Training	Article <del>17</del> 18 Training	Article <del>17</del> 18 Training

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 17, first paragraph				
206	Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations to provide at regular intervals specialised training with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.	Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall <del>request those responsible for the training of</del> <u>ensure that specialised training is provided to</u> judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations <del>to provide</del> at regular intervals <del>specialised training</del> 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>	Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request those responsible for the training of judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations to provide <del>at regular intervals</del> specialised training with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.	Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall <del>request those responsible for the</del> <u>take necessary measures to ensure that specialised regular training</u> <del>of</del> <u>is provided to</u> judges, prosecutors, police, judicial staff and competent authorities' staff involved in criminal proceedings and investigations <del>to provide at regular intervals specialised training</del> with respect to the objectives of this Directive and appropriate to the functions of the involved staff and authorities.  Text Origin: EP Mandate
Article 18				
207	Article 18 Investigative tools	Article 18 Investigative tools	Moved to row 195a [207 - 195a]	<del>Article 18</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			Moved to row 195a	deleted  Moved to row 195a  Text Origin: Commission Proposal
Article 18, first paragraph				
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 <del>also</del> <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	deleted  Moved to row 195b
Article 18, first paragraph a				
208a		<u>Member States shall, where appropriate, and in accordance with national law, assign specialised investigation units, prosecutors and criminal judges,</u>		deleted  Deleted here but linked to row 204

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>and provide for specialised chambers of judges, to deal with environmental criminal cases.</u>		Text Origin: EP Mandate
Article 19				
209	Article 19 Coordination and cooperation between competent authorities within a Member State	Article 19 Coordination and cooperation between competent authorities within <del>a</del> <u>and between</u> Member <del>State</del> <u>States</u>	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 <u>may take the form of units and bodies referred to in Article 16 of this Directive and</u> 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:	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 19, first paragraph, point (a)				
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;	(a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;  Text Origin: Commission Proposal
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, <b>within the limits set out in applicable rules;</b>	(b) exchange of information for strategic and operational purposes, <u>within the limits set out in applicable rules;</u>  Text Origin: Council Mandate
Article 19, first paragraph, point (c)				
213	(c) consultation in individual investigations;	(c) consultation in individual investigations;	(c) consultation in individual investigations, <b>within the limits set out in applicable rules;</b>	(c) consultation in individual investigations, <u>within the limits set out in applicable rules;</u>  Text Origin: Council Mandate

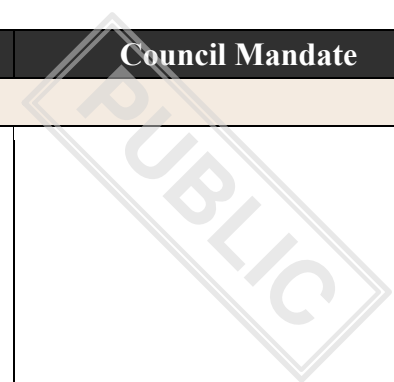


	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 19, first paragraph, point (d)			
G	214	(d) the exchange of best practices;	(d) the exchange of best practices;	(d) the exchange of best practices;  Text Origin: Commission Proposal
	Article 19, first paragraph, point (da)			
Y	214a	<u>(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.</u>		
	Article 19, first paragraph, point (e)			
G	215	(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related	(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related	(e) assistance to European networks of practitioners working on matters relevant to combating environmental offences and related

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	infringements,	infringements,	infringements,	infringements,  Text Origin: Commission Proposal
Article 19, first paragraph, first paragraph				
216	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.	and may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.  Text Origin: Commission Proposal
Article 19a				
216a		<u>Article 19a</u>  <u>Cooperation between the Member States and the Commission, and other Union institutions, bodies, offices or agencies</u>		<u>Article 19a</u>  <u>Cooperation between the Member States and the Commission, and other Union institutions, bodies, offices or agencies</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: EP Mandate
Article 19a(1)				
216b		<p><u>1. Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, the Member States, Eurojust, Europol, the European Public Prosecutor's Office and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end the Commission, and where appropriate, Eurojust, shall provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations.</u></p>		<p><u>1. Where the environmental offences are suspected to be of a cross-border nature, the competent authorities of the Member States shall consider referring the information related to these cases to appropriate competent bodies. 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, the European Anti-Fraud Office (OLAF) and the Commission shall, within their respective competences, cooperate with each other in the fight against the criminal offences referred to in Articles 3 and 4. To that end Eurojust shall, where appropriate, provide such technical and operational assistance as the competent national authorities need to facilitate coordination of their investigations. The</u></p>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<p><u><i>Commission may, where appropriate, provide assistance.</i></u></p> <p>Recital:</p> <p>Without prejudice to the rules on cross-border cooperation and mutual legal assistance in criminal matters, there is a need for appropriate provision to be made for cooperation to ensure effective action against the criminal offences defined in this Directive, including technical and operational assistance provided, where appropriate, by Eurojust to the competent national authorities as they may need to coordinate their investigations. The Commission could, where appropriate, provide assistance. Such assistance should not entail the participation of the Commission in the investigation or prosecution procedures of individual criminal cases conducted by the national authorities and should not be understood as including financial support or any other budgetary commitment by the Commission.</p> <p>Text Origin: EP Mandate</p>



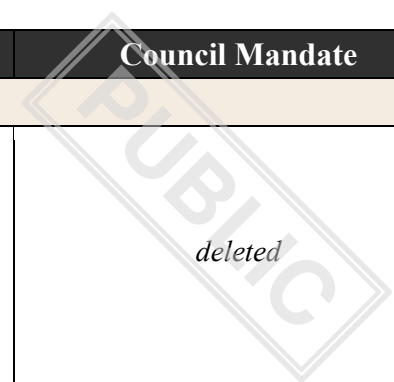
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 19a(2)			
Y	216c	<u>2. Within 12 months of the entry into force of this Directive the Commission shall draw up a report on measures for further strengthening cooperation between the Member States and the Commission and other Union 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 of the arrangements for such an extension.</u>		
	Article 20			
G	217	Article 20 National strategy	Article 20 National strategy	Article 20 National strategy  Text Origin: Commission Proposal
	Article 20(1)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
218	<p>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:</p>	<p>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:</p>	<p>1. By [OP – please insert the date – within one year after the entry into force of this Directive] <b>Member States shall establish and publish a national strategy on combating environmental criminal offences by [ one year after the transposition period is over ];</b></p> <p>Member States shall <del>establish, publish and</del> <b>take measures to implement a national strategy on combating environmental criminal offences which as a minimum shall address the following: without undue delay.</b></p>	<p>1. <del>By [OP – please insert the date – within one year after the entry into force of this Directive]</del> <b><u>Member States shall establish and publish a national strategy on combating environmental criminal offences by [ one year after the transposition period is over ];</u></b></p> <p>Member States shall <del>establish, publish and</del> <b><u>take measures to implement a national strategy on combating environmental criminal offences which</u></b> <del>without undue delay.</del> <b><u>The national strategy shall</u></b> as a minimum <del>shall</del> address the following:</p> <p>Council to check the entire article 20.</p> <p>Commission proposes to add recital 31 CNL GA</p> <p>Text Origin: Council Mandate</p>
Article 20(1), point (a)				
219	(a) the objectives and priorities of	(a) the objectives and priorities of		(a) the objectives and priorities of

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	national policy in this area of offence;	national policy in this area of offence, <u>including in the case of cross-border crimes</u> ;	<i>deleted</i>	national policy in this area of <del>offence</del> <u>offences, including in cross-border cases, and arrangements for regular evaluation of their attainment</u> ;
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>	(b) the roles and responsibilities of all the competent authorities involved in countering this type of offence, <u>including in terms of coordination and cooperation between the competent authorities, competent EU bodies and of assistance of European networks working on matters directly relevant to combating environmental offences, including in cross-border cases</u> ;
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>	<i>deleted</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 20(1), point (d)			
222	(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;	deleted	deleted
	Article 20(1), point (da)			
222a		<u>(da) the use of the proceeds of administrative and criminal sanctions for environmental restoration actions;</u>		deleted  Text Origin: EP Mandate
	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;	deleted	<del>(e)</del> <u>(c)</u> the resources <del>needed</del> <u>allocated</u> and how specialisation of enforcement professionals will be supported <del>;</del> <u>and evaluation of needs.</u>  Text Origin: EP Mandate





	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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 reporting</u> <del>and evaluation</del> of the results achieved;	deleted	deleted
Article 20(1), point (g)				
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.	deleted	deleted
Article 20(1), point (ga)				
225a		<u>(ga) assistance to and protection of victims.</u>		deleted  Text Origin: EP Mandate
Article 20(2)				
226	2. Member States shall ensure that	2. Member States shall ensure that	2. Member States shall ensure that	2. Member States shall ensure that

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the strategy is reviewed and updated at regular intervals no longer than 5 years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding environmental crime.	the strategy is reviewed and updated at regular intervals no longer than <del>5</del> 3 years, on a <del>risk-analysis-based-approach</del> <u>risk analysis and impact assessment based-approach</u> , in order to take account of relevant developments and trends and related threats regarding environmental crime.	the strategy is reviewed and updated at regular intervals no longer than 5 years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding environmental crime.	the strategy is reviewed and updated at regular intervals no longer than 5 years, on a risk-analysis-based-approach, in order to take account of relevant developments and trends and related threats regarding environmental crime.  Text Origin: Commission Proposal
Article 21				
G 227	Article 21 Data collection and statistics	Article 21 Data collection and statistics	Article 21 Data collection and statistics	Article 21 Data collection and statistics  Text Origin: Commission Proposal
Article 21(1)				
Y 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 <del>collect</del> <b>ensure that a system is in place for the recording, production and provision of anonymised statistical data measuring the reporting, investigative and</b>	1. Member States shall <del>collect</del> <u><b>ensure that a system is in place for the recording, production and provision of anonymised statistical data measuring the reporting, investigative and</b></u>

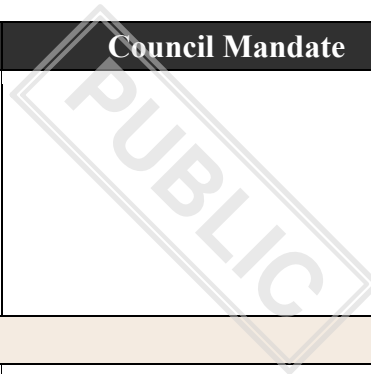
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			judicial phases concerning the offences referred to in Articles 3 and 4 in order to monitor the effectiveness of their systems to combat environmental criminal offences.	<u>judicial phases concerning the offences referred to in Articles 3 and 4 in order</u> to monitor the effectiveness of their systems to combat environmental criminal offences.  Text Origin: Council Mandate
Article 21(2)				
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, <b>as a minimum, include existing data on</b> include at least the following:	Recital proposal from the Commission (recital 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 environmental offences. Member States should therefore be obliged to ensure that an adequate system is in place for the recording, production and transmission 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

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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				activities, to analyse the scale of and trends in environmental offences, as well as for providing information to citizens. Statistical data on criminal proceedings on environmental offences can exist at a centralised or decentralised level and be in possession of different authorities, such as police, prosecution offices, courts, specialised agencies, ministries or national statistical offices. Member States should transmit to the Commission relevant statistical data on environmental crime proceedings. The Commission should regularly assess and publish the results based on the data transmitted by the Member States.'
Article 21(2), point (-a)				
229a			(a) the number of offences registered by the Member States;	<u>(a) the number of offences registered and adjudicated by the Member States;</u>  Text Origin: Council Mandate
Article 21(2), point (-b)				
229b				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>(aa) the number of dismissed court cases, including due to the expiry of the limitation period;</u>
Article 21(2), point (-c)				
Y	229c		<b>(b) the number of natural persons that are</b> <b>(i) prosecuted,</b> <b>(ii) convicted;</b>	<u>(b) the number of natural persons that are</u> <u>(i) prosecuted,</u> <u>(ii) convicted;</u>  Text Origin: Council Mandate
Article 21(2), point (-d)				
Y	229d		<b>(c) the number of legal persons that are</b> <b>(i) prosecuted,</b> <b>(ii) convicted or fined;</b>	<u>(c) the number of legal persons that are</u> <u>(i) prosecuted,</u> <u>(ii) convicted or fined;</u>  Text Origin: Council Mandate
Article 21(2), point (-e)				
Y	229e			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			(d) the types and levels of sanctions imposed.	<p>Proposal for a recital from COM:</p> <p>The level of detail of statistical data on types and levels of sanctions – including the level of detail of the related crime categories - that should be transmitted to the Commission should be determined under the Committee procedure provided for in this Directive</p>
	Article 21(2), point (a)			
Y	230	(a) the number of environmental crime cases reported;	(a) the number of environmental crime cases reported;	deleted
	Article 21(2), point (b)			
Y	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> ;	deleted
	Article 21(2), point (ba)			
Y	231a			



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>(ba) the number of environmental crime cases prosecuted and adjudicated;</u>		deleted  Text Origin: EP Mandate
Article 21(2), point (c)				
232	(c) the average length of the criminal investigations of environmental crimes;	(c) the <u>median</u> , average <del>length</del> <u>and maximum lengths</u> of the criminal investigations of environmental crimes;	deleted	deleted
Article 21(2), point (d)				
233	(d) the number of convictions for environmental crime;	(d) the number of convictions for environmental crime;	deleted	deleted
Article 21(2), point (da)				
233a		<u>(da) the number of convictions in environmental crime cases related to offences committed in the framework of a criminal organisation;</u>		deleted  Text Origin: EP Mandate

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 21(2), point (db)				
233b		<u>(db) the number of convictions for environmental crimes related to offences committed by a public official or involving a public authority;</u>		deleted  Text Origin: EP Mandate
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;	deleted	deleted
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;	deleted	deleted
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;	deleted	deleted



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 21(2), point (ga)			
236a		<u>(ga) the number of court cases dismissed due to the expiry of the limitation period;</u>		deleted  Text Origin: EP Mandate
	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.	deleted	deleted
	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 <del>regularly published</del> <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.	3. Member States shall ensure that a consolidated review of their statistics is <del>regularly</del> published <u>at least every three years.</u>  Text Origin: EP Mandate
	Article 21(4)			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
239	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard format established in accordance with Article 22.	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard, <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> .	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard format established in accordance with Article 22.	4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 in a standard, <u>easily accessible and comparable</u> format established in accordance with Article 22 <u>within 36 months of the entry into force of this Directive</u> .  Text Origin: EP Mandate
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 <del>regularly</del> <u>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 <del>three</del> <u>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.	5. The Commission shall <del>regularly</del> <u>at least every three years</u> 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.  Text Origin: EP Mandate
Article 21(5a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Y	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>	PUBLIC	deleted  Text Origin: EP Mandate
Article 22				
G	241	Article 22 Implementing powers	Article 22 Implementing powers	Article 22 Implementing powers  Text Origin: Commission Proposal
Article 22(1)				
G	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).

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
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:	2. For the purposes of the transmission of statistical data, the standard format shall contain the following elements:  Text Origin: Commission Proposal
Article 22(2), point (a)				
244	(a) a common classification of environmental crimes;	(a) a common classification of environmental crimes;	(a) a common classification of environmental crimes;	(a) a common classification of environmental crimes;  Text Origin: Commission Proposal
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;	(b) a common understanding of counting units;

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
	Article 22(2), point (c)			
Y	246	(c) a common understanding of procedural stages (investigation, prosecution, trial) in environmental crime proceedings;	deleted	<p>proposal from the EP to change point (d) in the following way:</p> <p>a common reporting format enabling comparison of procedural stages.</p>
	Article 22(2), point (d)			
G	247	(d) a common reporting format.	<del>(d)</del> (c) a common reporting format.	<p>(d) a common reporting format.</p> <p>numbering to be seen later</p> <p>Text Origin: Commission Proposal</p>
	Article 23			
G	248	Article 23	Article 23	Article 23

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Committee procedure	Committee procedure	Committee procedure	Committee procedure  Text Origin: Commission Proposal
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.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.  Text Origin: Commission Proposal
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.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  Text Origin: Commission Proposal
Article 23(3)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
G	251	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.	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.  Text Origin: Commission Proposal
Article 24				
G	252	Article 24 Transposition	Article 24 Transposition	Article 24 Transposition  Text Origin: Commission Proposal
Article 24(1)				
Y	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	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	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP – please insert <u>xx months</u> after the date <del>—within 18 months</del>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	force of the Directive]. They shall immediately inform the Commission thereof. The methods of making such reference shall be laid down by Member States.	force of the Directive]. They shall immediately inform the Commission thereof. The methods of making such reference shall be laid down by Member States.	<del>after of entry into force of the Directive</del> entry into force of the Directive]. They shall immediately inform the Commission thereof. <del>The methods of making such reference shall be laid down by Member States.</del>	<del>after of entry into force of the Directive</del> entry into force of the Directive]. They shall immediately inform the Commission thereof. <del>The methods of making such reference shall be laid down by Member States.</del>  24 months is being checked by Council and Commission  Text Origin: Council Mandate
Article 24(2)				
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. <b>The methods of making such reference shall be laid down by Member States.</b> 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. <u>The methods of making such reference shall be laid down by Member States.</u> 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.



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 25				
255	Article 25 Evaluation and reporting	Article 25 Evaluation <del>and</del> reporting <u>and review</u>	Article 25 Evaluation and reporting	
Article 25(1)				
256	1. The Commission shall by [OP – please insert the date - two years after the transposition period is over], submit a report to the European Parliament and to the Council assessing the extent to which the Member States have taken the necessary measures to comply with this Directive. Member States shall provide the Commission with the necessary information for the preparation of that report.	1. The Commission shall by [OP – please insert the date - two years after the transposition period is over], <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> .	1. The Commission shall by <b>[ two years after the transposition period of this Directive is over]</b> <del>[OP – please insert the date – two years after the transposition period is over]</del> , 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.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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 which includes a summary about implementation of and actions taken in accordance with Articles 15 to 17, 19 and 20.	2. Every two years as of [OP – please insert the date one year after the transposition period is over], Member States shall send the Commission a report within three months which includes a summary about implementation of and actions taken in accordance with Articles 15 to 17, 19 and 20.	<i>deleted</i>	
	Article 25(3)			
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 - <del>five</del> <u>three</u> 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</u>	<del>32. By [ five years after the transposition period of this Directive is over</del> [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, <b>including a summary about the</b>	

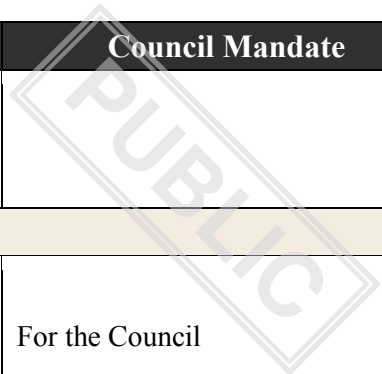
	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>report shall be accompanied by a legislative proposal, if necessary.</u>	implementation and actions taken in accordance with Articles 16 to 20.	
Article 26				
259	Article 26 Replacement of Directive 2008/99/EC	Article 26 Replacement of Directive 2008/99/EC	Article 26 Replacement of Directive 2008/99/EC	Article 26 Replacement of Directive 2008/99/EC  Text Origin: Commission Proposal
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,	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,	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,	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,

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	they shall remain bound by Directive 2008/98/EC.	they shall remain bound by Directive 2008/98/EC.	they shall remain bound by Directive <del>2008/98/EC</del> 2008/99/EC .	they shall remain bound by Directive <del>2008/98/EC</del> <u>2008/99/EC</u> .  Text Origin: Council Mandate
Article 27				
261	Article 27 Application of Directive 2005/35/EC	Article 27 Application of Directive 2005/35/EC	Article 27 <del>Application</del> <b>Replacement</b> of Directive <del>2005/35/EC</del> 2009/123/EC	Article 27 <del>Application</del> <u>Replacement</u> of Directive <del>2005/35/EC</del> <u>2009/123/EC</u>  Text Origin: Council Mandate
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, <b>amending Directive 2005/35/EC</b> , shall <b>be replaced with regard</b> <del>cease to apply</del> to the Member States <del>participating in</del> <b>bound by</b> this Directive <del>from the date of its</del> , <b>without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law.</b>	Directive 2009/123/EC, <u>amending Directive 2005/35/EC</u> , shall <u>be replaced with regard</u> <del>cease to apply</del> to the Member States <del>participating in</del> <u>bound by</u> this Directive <del>from the date of its</del> , <u>without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Council Mandate
Article 27, first paragraph a				
G 262a			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 shall be construed as references to this Directive.	<p><u>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 shall be construed as references to this Directive.</u></p> <p>Text Origin: Council Mandate</p>
Article 27, third paragraph				
G 262b			Member States not bound by this Directive shall remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.	<p><u>Member States not bound by this Directive shall remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.</u></p> <p>Text Origin: Council Mandate</p>
Article 28				
G 263				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 28 Entry into force		Article 28 Entry into force	Article 28 Entry into force  Text Origin: Council Mandate
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.	This Directive shall enter into force on the twentieth day following that of its publication in the <u>Official Journal of the European Union</u> <del>Official Journal the European Union.</del>  Text Origin: Council Mandate
Article 29				
265	Article 29 Addressees		Article 29 Addressees	Article 29 Addressees  Text Origin: Council Mandate
Article 29, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
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.	This Directive is addressed to the Member States in accordance with the Treaties.  Text Origin: Commission Proposal
Formula				
267	Done at Brussels,		Done at Brussels,	Done at Brussels,  Text Origin: Council Mandate
Formula				
268	For the European Parliament		For the European Parliament	For the European Parliament  Text Origin: Council Mandate
Formula				
269	The President		The President	The President



	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				Text Origin: Commission Proposal
	Formula			
270	For the Council		For the Council	Text Origin: Commission Proposal
	Formula			
271	The President		The President	Text Origin: Commission Proposal