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►B DIRECTIVE (EU) 2024/1203 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 April 2024

on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC

(OJ L 1203, 30.4.2024, p. 1)

Corrected by:

►C1 Corrigendum, OJ L 90336, 15.4.2025, p. 1 (2024/1203)

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DIRECTIVE (EU) 2024/1203 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 April 2024

on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC

Article 1

Subject matter

This Directive establishes minimum rules with regard to the definition of criminal offences and penalties in order to protect the environment more effectively, as well as with regard to measures to prevent and combat environmental crime and to effectively enforce Union environmental law.

Article 2

Definitions

1. The terms used in this Directive for the purpose of describing conduct listed in Article 3(2) shall be construed, where applicable, in accordance with definitions provided for in Union law as referred to in Article 3(1), point (a).

2. For the purposes of this Directive, the following definitions apply:

(a) ‘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;

(b) ‘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, 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 Directive 92/43/EEC or for which a site is listed as a site of Community importance in accordance with Article 4(2) of Directive 92/43/EEC;

(c) ‘ecosystem’ means a dynamic complex of plant, animal, fungi and microorganism communities and their non-living environment, interacting as a functional unit, and includes habitat types, habitats of species and species populations.

Article 3

Criminal offences

1. Member States shall ensure that conduct listed in paragraphs 2 and 3 of this Article, where it is intentional, and conduct referred to in paragraph 4 of this Article, where it is carried out with at least serious negligence, constitutes a criminal offence where that conduct is unlawful.

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For the purpose of this Directive, conduct shall be unlawful where it breaches:

(a) Union law which contributes to pursuit of one of the objectives of the Union's policy on the environment as set out in Article 191(1) TFEU; or

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

Such conduct shall be unlawful even where it is carried out under an authorisation issued by a competent authority of a Member State if such authorisation was obtained fraudulently or by corruption, extortion or coercion, or if such authorisation is in manifest breach of relevant substantive legal requirements.

2. Member States shall ensure that the following conduct constitutes a criminal offence where it is unlawful and intentional:

(a) 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 the death of, or serious injury to, any person or substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants;

(b) the placing on the market, in breach of a prohibition or another requirement aimed at protecting the environment, of a product the use of which on a larger scale, namely the use of the product by several users, regardless of their number, results in the discharge, emission or introduction of a quantity of materials or substances, energy or ionising radiation into air, soil or water and causes or is likely to cause the death of, or serious injury to, any person or substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants;

(c) the manufacture, placing or making available on the market, export or use of substances, whether on their own, in mixtures or in articles, including their incorporation into articles, where such conduct causes or is likely to cause the death of, or serious injury to, any person, substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants and:

(i) is restricted pursuant to Title VIII of and Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([1]);

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

([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).

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(iii) is not in compliance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council ([2]);

(iv) is not in compliance with Regulation (EU) No 528/2012 of the European Parliament and of the Council ([3]);

(v) is not in compliance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([4]); or

(vi) is prohibited pursuant to Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council ([5]);

(d) the manufacture, use, storage, import or export of mercury, mercury compounds, mixtures of mercury, and mercury-added products where such conduct is not in compliance with the requirements set out in Regulation (EU) 2017/852 of the European Parliament and of the Council ([6]) and causes or is likely to cause the death of, or serious injury to, any person, substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants;

(e) the execution of projects within the meaning of Article 1(2)(a), as referred to in Article 4(1) and (2), of Directive 2011/92/EU of the European Parliament and of the Council ([7]), where such conduct is carried out without a development consent and causes or is likely to cause substantial damage to the quality of air or soil, or the quality or status of water, or substantial damage to an ecosystem, animals or plants;

(f) the collection, transport or treatment of waste, the supervision of such operations and the after-care of disposal sites, including action taken as a dealer or a broker, where such conduct:

(i) concerns hazardous waste as defined in Article 3(2) of Directive 2008/98/EC of the European Parliament and of the Council ([8]) and it concerns a non-negligible quantity of such waste; or

([2]) 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).

([3]) 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).

([4]) 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).

([5]) 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).

([6]) 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).

([7]) 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).

([8]) 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).

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

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(g) the shipment of waste, within the meaning of Article 3, point (26), of Regulation (EU) 2024/1157 of the European Parliament and of the Council ([9]), where such conduct concerns a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;

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(h) the recycling of ships falling within the scope of Regulation (EU) No 1257/2013, where such conduct is not in compliance with the requirements referred to in Article 6(2), point (a), of that Regulation;

(i) the ship-source discharge of polluting substances falling within the scope of Article 3 of Directive 2005/35/EC into any area referred to in Article 3(1) of that Directive, except where such ship-source discharge satisfies the conditions for exceptions set out in Article 5 of that Directive, which causes or is likely to cause deterioration in the quality of water or damage to the marine environment;

(j) the operation or closure of an installation in which a dangerous activity is carried out or in which dangerous substances or mixtures are stored or used, where such conduct and such dangerous activity, substance or mixture fall within the scope of Directive 2012/18/EU of the European Parliament and of the Council ([10]) or of Directive 2010/75/EU of the European Parliament and of the Council ([11]), and such conduct causes or is likely to cause the death of, or serious injury to, any person or substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants;

(k) the construction, operation and dismantling of an installation, where such conduct and such an installation fall within the scope of Directive 2013/30/EU of the European Parliament and of the Council ([12]), and such conduct causes or is likely to cause the death of, or serious injury to, any person or substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants;

([9]) Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006 (OJ L, 2024/1157, 30.4.2024, ELI: http://data.europa.eu/eli/reg/2024/1157/oj).

([10]) 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 (OJ L 197, 24.7.2012, p. 1).

([11]) 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).

([12]) 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).

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(l) the manufacture, production, processing, handling, use, holding, storage, transport, import, export or disposal of radioactive material or radioactive substances, where such conduct and such a material or substances fall within the scope of Council Directives 2013/59/Euratom ([13]), 2014/87/Euratom ([14]) or 2013/51/Euratom ([15]), and such conduct causes or is likely to cause the death of, or serious injury, to any person or substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants;

(m) the abstraction of surface water or groundwater within the meaning of Directive 2000/60/EC of the European Parliament and of the Council ([16]), where such conduct causes or is likely to cause substantial damage to the ecological status or ecological potential of surface water bodies or to the quantitative status of groundwater bodies;

(n) the killing, destruction, taking of, possession, sale or offering for sale of a specimen or specimens of a species of wild fauna or flora listed in Annex IV, or in Annex V where species in that Annex are subject to the same measures as those adopted for species in Annex IV, to Council Directive 92/43/EEC ([17]) and of a specimen or specimens of the species referred to in Article 1 of Directive 2009/147/EC of the European Parliament and of the Council ([18]), except where such conduct concerns a negligible quantity of such specimens;

(o) the trade of a specimen or specimens, or parts or derivatives thereof, of a species of wild fauna or flora, listed in Annexes A and B to Council Regulation (EC) No 338/97 ([19]), and import of a specimen or specimens, or parts or derivatives thereof, of such species listed in Annex C to that Regulation, except where such conduct concerns a negligible quantity of such specimens;

(p) the placing or making available on the Union market or the export from the Union market of relevant commodities or relevant products, in breach of the prohibition set out in Article 3 of Regulation (EU) 2023/1115, except where such conduct concerns a negligible quantity;

([13]) 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).

([14]) 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).

([15]) 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).

([16]) 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).

([17]) 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).

([18]) 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).

([19]) 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).

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(q) any conduct which causes the deterioration of a habitat within a protected site, or the disturbance of animal species listed in Annex II, point (a), to Directive 92/43/EEC within a protected site, within the meaning of Article 6(2) of that Directive, where such deterioration or disturbance is significant;

(r) the bringing into the territory of the Union, placing on the market, keeping, breeding, transporting, using, exchanging, permitting to reproduce, growing or cultivating, releasing into the environment, or the spreading of invasive alien species of Union concern, where such conduct breaches:

(i) restrictions set out in Article 7(1) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council ([20]) and causes or is likely to cause the death of, or serious injury to, any person or substantial damage to the quality of air, soil or water, or substantial damage to an ecosystem, animals or plants; or

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

(s) the production, placing on the market, import, export, use, or release of ozone depleting substances, whether alone or as mixtures, as referred to in Article 2, point (a), of Regulation (EU) 2024/590 of the European Parliament and of the Council ([21]), or the production, placing on the market, import, export or use of products and equipment, and parts thereof, containing ozone-depleting substances or whose functioning relies upon those substances as referred to in Article 2(b) of that Regulation;

(t) the production, placing on the market, import, export, use, or release of fluorinated greenhouse gases, whether alone or as mixtures, as referred to in Article 2, point (a), of Regulation (EU) 2024/573 of the European Parliament and of the Council ([22]) or the production, placing on the market, import, export or use of products and equipment, and parts thereof, containing fluorinated greenhouse gases or whose functioning relies upon those gases as referred to in Article 2, point (b), of that Regulation, or the putting into operation of such products and equipment.

([20]) 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).

([21]) Regulation (EU) 2024/590 of the European Parliament and of the Council of 7 February 2024 on substances that deplete the ozone layer, and repealing Regulation (EC) No 1005/2009 (OJ L, 2024/590, 20.2.2024, ELI: http://data.europa.eu/eli/reg/2024/590/oj).

([22]) Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014 (OJ L, 2024/573, 20.2.2024, ELI: http://data.europa.eu/eli/reg/2024/573/oj).

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3. Member States shall ensure that criminal offences relating to conduct listed in paragraph 2 constitute qualified criminal offences if such conduct causes:

(a) the destruction of, or widespread and substantial damage which is either irreversible or long-lasting to, an ecosystem of considerable size or environmental value or a habitat within a protected site, or

(b) widespread and substantial damage which is either irreversible or long-lasting to the quality of air, soil or water.

4. Member States shall ensure that the conduct listed in paragraph 2, points (a) to (d), points (f) and (g), points (i) to (q), point (r)(ii), and points (s) and (t), constitutes a criminal offence where that conduct is unlawful and carried out with at least serious negligence.

5. In addition to the criminal offences relating to conduct listed in paragraph 2, Member States may, in accordance with their national law, provide for additional criminal offences in order to protect the environment.

6. Member States shall ensure that, in assessing whether the damage or likely damage is substantial, as regards conduct listed in paragraph 2, points (a) to (e), point (f)(ii), points (j) to (m), and point (r), one or more of the following elements is taken into account, where relevant:

(a) the baseline condition of the affected environment;

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

(c) the extent of the damage;

(d) the reversibility of the damage.

7. Member States shall ensure that, in assessing whether conduct listed in paragraph 2, points (a) to (e), point (f)(ii), points (i) to (m), and point (r), is likely to cause damage to the quality of air or soil, or the quality or status of water, or to an ecosystem, animals or plants, one or more of the following elements is taken into account, where relevant:

(a) the conduct relates to an activity which is considered to be risky or dangerous for the environment or human health, and requires an authorisation which was not obtained or complied with;

(b) the extent to which a regulatory threshold, value or another mandatory parameter set out in Union or national law referred to in paragraph 1, second subparagraph, points (a) and (b), or in an authorisation issued for the relevant activity is exceeded;

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

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8. Member States shall ensure that in assessing whether a quantity is negligible or non-negligible for the purposes of paragraph 2, point (f)(i), and points (g), (n), (o) and (p), one or more of the following elements is taken into account, where relevant:

(a) the number of items concerned;

(b) the extent to which a regulatory threshold, value or another mandatory parameter set out in Union or national law referred to in paragraph 1, second subparagraph, points (a) and (b), is exceeded;

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

(d) the cost of restoration of the environment, where it is feasible to assess that cost.

Article 4

Inciting, aiding and abetting, and attempt

1. Member States shall ensure that inciting, and aiding and abetting the commission of a criminal offence covered by Article 3(2) and (3) is punishable as a criminal offence.

2. Member States shall ensure that an attempt to commit a criminal offence covered by Article 3(2), points (a) to (d), points (f) and (g), points (i) to (m), and points (o), (p), (r), (s) and (t), is punishable as a criminal offence.

Article 5

Penalties for natural persons

1. Member States shall take the necessary measures to ensure that criminal offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

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

(a) criminal offences covered by Article 3(2), points (a) to (d), and points (f), (j), (k), (l) and (r), are punishable by a maximum term of imprisonment of at least 10 years if they cause the death of any person;

(b) criminal offences covered by Article 3(3) are punishable by a maximum term of imprisonment of at least eight years;

(c) criminal offences covered by Article 3(4), where that paragraph refers to Article 3(2), points (a) to (d), and points (f), (j), (k) and (l), are punishable by a maximum term of imprisonment of at least five years if they cause the death of any person;

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(d) criminal offences covered by Article 3(2), points (a) to (l), and points (p), (s) and (t), are punishable by a maximum term of imprisonment of at least five years;

(e) criminal offences covered by Article 3(2), points (m), (n), (o), (q) and (r), are punishable by a maximum term of imprisonment of at least three years.

3. Member States shall take the necessary measures to ensure that natural persons who have committed criminal offences referred to in Articles 3 and 4 may be subject to accessory criminal or non-criminal penalties or measures which may include the following:

(a) an obligation to:

(i) restore the environment within a given period, if the damage is reversible, or

(ii) pay compensation for the damage to the environment, if the damage is irreversible or the offender is not in a capacity to carry out such restoration;

(b) fines that are proportionate to the gravity of the conduct and to the individual, financial and other circumstances of the natural person concerned and, where relevant, that are determined taking due account of the gravity and duration of the damage caused to the environment and of the financial benefits generated from the offence;

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

(d) disqualification from holding, within a legal person, a leading position of the same type used for committing the offence;

(e) withdrawal of permits and authorisations to pursue activities that resulted in the relevant criminal offence;

(f) temporary bans on running for public office;

(g) where there is a public interest, following a case-by-case assessment, publication of all or part of the judicial decision that relates to the criminal offence committed and the penalties or measures imposed, which may include the personal data of convicted persons only in duly justified exceptional cases.

Article 6

Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for criminal offences referred to in Articles 3 and 4 where such offences have been committed for the benefit of those legal persons by any person who has a leading position within the legal person concerned, acting either individually or as part of an organ of that legal person, based on:

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

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

(c) an authority to exercise control within the legal person.

2. Member States shall take the necessary measures to 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 a criminal offence referred to in Articles 3 and 4 for the benefit of the legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 of this Article shall not preclude criminal proceedings against natural persons who commit, incite or are accessories to the criminal offences referred to in Articles 3 and 4.

Article 7

Penalties for legal persons

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 6(1) or (2) is punishable by effective, proportionate and dissuasive criminal or non-criminal penalties or measures.

2. Member States shall take the necessary measures to ensure that penalties or measures for legal persons held liable pursuant to Article 6(1) or (2) for the criminal offences referred to in Articles 3 and 4 shall include criminal or non-criminal fines and may include other criminal or non-criminal penalties or measures, such as:

(a) an obligation to:

(i) restore the environment within a given period, if the damage is reversible, or

(ii) pay compensation for the damage to the environment, if the damage is irreversible or the offender is not in a capacity to carry out such restoration;

(b) exclusion from entitlement to public benefits or aid;

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

(d) temporary or permanent disqualification from the practice of business activities;

(e) withdrawal of permits and authorisations to pursue activities that resulted in the relevant criminal offence;

(f) placing under judicial supervision;

(g) judicial winding-up;

(h) closure of establishments used for committing the offence;

(i) an obligation to establish due diligence schemes for enhancing compliance with environmental standards;

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(j) where there is a public interest, publication of all or part of the judicial decision relating to the criminal offence committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.

3. Member States shall take the necessary measures to ensure that, at least for legal persons held liable pursuant to Article 6(1), criminal offences covered by Article 3(2) are punishable by criminal or non-criminal fines, the amount of which shall be proportionate to the gravity 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 such fines is not less than:

(a) for criminal offences covered by Article 3(2), points (a) to (l), and points (p), (s) and (t):

(i) 5 % of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine, or

(ii) an amount corresponding to EUR 40 000 000;

(b) for criminal offences covered by Article 3(2), points (m), (n), (o), (q) and (r):

(i) 3 % of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine, or

(ii) an amount corresponding to EUR 24 000 000.

Member States may establish 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 that in which the offence was committed, or in the business year preceding that of the decision to impose the fine.

4. Member States shall take the necessary measures to ensure that legal persons held liable pursuant to Article 6 for the criminal offences covered by Article 3(3) are punishable by more severe criminal or non-criminal penalties or measures than those applicable for the criminal offences covered by Article 3(2).

Article 8

Aggravating circumstances

To the extent that the following circumstances do not form part of the constituent elements of the criminal offences referred to in Article 3, Member States shall take the necessary measures to ensure that, in relation to the relevant criminal offences referred to in Articles 3 and 4, one or more of the following circumstances can, in accordance with national law, be regarded as an aggravating circumstance:

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

(b) the offence was committed in the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA ([23]);

(c) the offence involved the use by the offender of false or forged documents;

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

(e) the offender has previously been convicted by a final judgment of offences of the same nature as those referred to in Article 3 or 4;

(f) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly, to the extent that such benefits or expenses can be determined;

(g) the offender destroyed evidence, or intimidated witnesses or complainants;

(h) 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, or a site designated as a special area of conservation in accordance with Article 4(4) of Directive 92/43/EEC or a site listed as site of Community importance in accordance with Article 4(2) of Directive 92/43/EEC.

The aggravating circumstance referred to in point (a) of this Article shall not apply to the criminal offences covered by Article 3(3).

Article 9

Mitigating circumstances

Member States shall take the necessary measures to ensure that, in relation to the relevant criminal offences referred to in Articles 3 and 4, one or more of the following circumstances can, in accordance with national law, be regarded as a mitigating circumstance:

(a) the offender restores the environment to its previous condition, where such restoration is not an obligation under Directive 2004/35/EC, or, before the start of a criminal investigation, takes steps to minimise the impact and extent of the damage or remediates the damage;

(b) the offender provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:

(i) identify or bring to justice other offenders;

(ii) find evidence.

([23]) Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

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Article 10

Freezing and confiscation

Member States shall take the necessary measures to enable the tracing, identifying, freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 3 and 4.

Member States bound by Directive 2014/42/EU of the European Parliament and of the Council ([24]) shall take the measures referred to in the first paragraph in accordance with that Directive.

Article 11

Limitation periods

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and 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.

Member States shall take the necessary measures to provide for a limitation period that enables the enforcement of penalties imposed following a final conviction for criminal offences referred to in Articles 3 and 4 for a sufficient period of time after that conviction.

2. The limitation period referred to in paragraph 1, first subparagraph, shall be as follows:

(a) at least 10 years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least 10 years;

(b) at least five years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least five years;

(c) at least three years from the commission of a criminal offence punishable by a maximum term of imprisonment of at least three years.

3. The limitation period referred to in paragraph 1, second subparagraph, shall be as follows:

(a) at least 10 years from the date of the final conviction in the following cases:

(i) a penalty of imprisonment of more than five years, or alternatively

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least 10 years;

([24]) Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

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(b) at least five years from the date of the final conviction in the following cases:

(i) a penalty of imprisonment of more than one year, or alternatively

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least five years; and

(c) at least three years from the date of the final conviction in the following cases:

(i) a penalty of imprisonment of up to one year, or alternatively

(ii) a penalty of imprisonment for a criminal offence punishable by a maximum term of imprisonment of at least three years.

4. By way of derogation from paragraphs 2 and 3, Member States may establish a limitation period that is shorter than 10 years, but not shorter than five years, provided that such limitation period may be interrupted or suspended in the event of specified acts.

Article 12

Jurisdiction

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

(a) the offence was committed in whole or in part within its territory;

(b) the offence was committed on board a ship or an aircraft registered in the Member State concerned, or flying its flag;

(c) the damage which is one of the constituent elements of the offence occurred on its territory; or

(d) the offender is one of its nationals.

2. A Member State shall inform the Commission where it decides to extend its jurisdiction to one or more criminal offences referred to in Articles 3 and 4 which have been committed outside its territory, where:

(a) the offender is a habitual resident in its territory;

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

(c) the offence is committed against one of its nationals or its habitual residents; or

(d) the offence has created a severe risk for the environment on its territory.

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Where a criminal offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State, those Member States shall cooperate to determine which Member State is to conduct the criminal proceedings. The matter shall, where appropriate and in accordance with Article 12(2) of Council Framework Decision 2009/948/JHA ([25]), be referred to Eurojust.

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.

Article 13

Investigative tools

Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available for investigating or prosecuting criminal offences referred to in Articles 3 and 4. Where appropriate, those tools shall include special investigative tools, such as those used in combatting organised crime or in other serious crime cases.

Article 14

Protection of persons who report environmental criminal offences or assist the investigation thereof

Without prejudice to Directive (EU) 2019/1937, Member States shall take the necessary measures to ensure that any persons reporting criminal offences referred to in Articles 3 and 4 of this Directive, 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.

Article 15

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

Member States shall ensure that persons affected or likely to be affected by the criminal offences referred to in Articles 3 and 4 of this Directive and persons having a sufficient interest or maintaining the impairment of a right, as well as non-governmental organisations that promote environmental protection and meet requirements under national law, have appropriate procedural rights in proceedings concerning those offences, 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 law, that the information on the progress of the proceedings is shared with the public concerned, where that is done in proceedings concerning other criminal offences.

([25]) Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42).

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Article 16

Prevention

Member States shall take appropriate measures, such as information and awareness-raising campaigns targeting relevant stakeholders from the public and private sector, as well as research and education programmes, which aim to reduce environmental criminal offences and the risk of environmental crime. Where appropriate, Member States shall act in cooperation with such stakeholders.

Article 17

Resources

Member States shall ensure that national authorities which detect, investigate, prosecute or adjudicate environmental criminal offences have a sufficient number of qualified staff and sufficient financial, technical and technological resources for the effective performance of their functions related to the implementation of this Directive. Member States shall, taking into account the constitutional traditions and structure of their legal system, as well as other national circumstances, assess the need to increase the level of specialisation of those authorities in the area of environmental criminal law, in accordance with national law.

Article 18

Training

Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall take necessary measures to ensure that specialised regular training is provided to judges, prosecutors, police and judicial staff and to competent authorities' staff involved in criminal proceedings and investigations with regard to the objectives of this Directive and appropriate to the functions of such judges, prosecutors, police and judicial staff and competent authorities' staff.

Article 19

Coordination and cooperation between competent authorities within a Member State

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:

(a) ensuring common priorities and understanding of the relationship between criminal and administrative enforcement;

(b) exchange of information for strategic and operational purposes, within the limits set out in applicable Union and national law;

(c) consultation in individual investigations, within the limits set out in applicable Union and national law;

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(d) the exchange of best practices;

(e) providing assistance to European networks of practitioners working on matters relevant to combatting environmental criminal offences and related infringements.

The mechanisms referred to in the first paragraph may take the form of specialised coordination bodies, memoranda of understanding between competent authorities, national enforcement networks and joint training activities.

Article 20

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

Where environmental criminal offences are suspected to be of a cross-border nature, the competent authorities of the Member States concerned shall consider referring the information related to those offences 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 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 the technical and operational assistance needed by the competent national authorities to facilitate coordination of their investigations. The Commission may, where appropriate, provide assistance.

Article 21

National strategy

1. Member States shall establish and publish a national strategy on combatting environmental criminal offences by 21 May 2027.

Member States shall take measures to implement their national strategy without undue delay. The national strategy shall address at least the following:

(a) the objectives and priorities of national policy in the area of environmental criminal offences, including in cross-border cases, and arrangements for regular evaluation of whether they are being attained;

(b) the roles and responsibilities of all the competent authorities involved in combatting environmental criminal offences, including as regards coordination and cooperation between the national competent authorities as well as with the competent Union bodies and as regards providing assistance to European networks working on matters directly relevant to combatting those offences, including in cross-border cases;

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(c) how specialisation of enforcement professionals will be supported, an estimation of the resources allocated to combat environmental crime and an evaluation of future needs in that regard.

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

Article 22

Statistical data

1. Member States shall ensure that a system is in place for the recording, production and provision of anonymised statistical data on the reporting, investigative and judicial stages in relation to the criminal offences referred to in Articles 3 and 4 in order to monitor the effectiveness of their measures to combat environmental criminal offences.

2. The statistical data referred to in paragraph 1 shall, as a minimum, include existing data on:

(a) the number of criminal offences registered and adjudicated by the Member States;

(b) the number of dismissed court cases, including on the grounds of expiry of the limitation period for the criminal offence concerned;

(c) the number of natural persons that are:

(i) prosecuted,

(ii) convicted;

(d) the number of legal persons that are:

(i) prosecuted,

(ii) convicted or fined;

(e) the types and levels of penalties imposed.

3. Member States shall ensure that a consolidated review of their statistics is published at least every three years.

4. Member States shall annually transmit to the Commission the statistical data referred to in paragraph 2 of this Article in the standard format referred to in Article 23.

5. The Commission shall, at least every three years, publish a report based on the statistical data transmitted by the Member States. The report shall be published for the first time three years after the standard format referred to in Article 23 has been established.

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Article 23

Implementing powers

1. By 21 May 2027, the Commission shall establish, by means of implementing acts, a standard, easily accessible and comparable format for the transmission of statistical data referred to in Article 22(4). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2).

2. The standard format for the transmission of statistical data shall comprise the following elements:

(a) a classification of environmental criminal offences;

(b) counting units;

(c) a reporting format.

A common understanding of the elements referred to in the first subparagraph shall be ensured.

Article 24

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 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.

Article 25

Evaluation, reporting and review

1. By 21 May 2028, the Commission shall 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.

2. By 21 May 2031, the Commission shall carry out an evaluation of the impact of this Directive addressing the need to update the list of environmental criminal offences referred to in Articles 3 and 4 and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report, including a summary of the implementation of this Directive and actions taken in accordance with Articles 16 to 21, and statistical data, with particular attention given to cross-border cooperation. Where necessary, that report shall be accompanied by a legislative proposal.

3. The Commission shall regularly consider if there is a need to amend the criminal offences covered by Article 3(2).

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Article 26

Replacement of Directive 2008/99/EC

Directive 2008/99/EC is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that Directive into national law. With regard to the Member States bound by this Directive, references to Directive 2008/99/EC shall be construed as references to this Directive. As regards Member States not bound by this Directive, they shall remain bound by Directive 2008/99/EC.

Article 27

Replacement of Directive 2009/123/EC

Directive 2009/123/EC shall be 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.

With regard to the Member States bound by this Directive, references to those provisions of Directive 2005/35/EC added or replaced by Directive 2009/123/EC shall be construed as references to this Directive.

Member States not bound by this Directive shall remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.

Article 28

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 21 May 2026. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 29

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 30

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.