

Courtesy translation



THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
13TH TERM

434th

RESOLUTION OF THE SENATE

Delivered on the 24th Session held on the 6th of April 2022

on the Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC (Senate Print No. N 139/13, COM(2021) 851)

The Senate

I.

1. Got acquainted

with the Proposal for a Directive and appreciates the Commission's effort to intensify the fight against crime related to damaging the environment;

2. Agrees

with the Government's Position and with the Government's requests to modify the Proposal for a Directive, in particular in the points given below;

3. Is of the opinion

that on the basis of Article 83(2) of the Treaty on the Functioning of the European Union (establishing minimum rules with regard to the definition of criminal offences and sanctions in EU policy areas which have been subject to harmonisation measures), the Union is not authorised to introduce new types of criminal sanctions that are not present in the law of all Member States (among other, the "temporary ban on running for elected office"), or to interfere in the procedural criminal law (the unclearly defined right of the public concerned to participate in criminal proceedings);

4. Requests, therefore,

the deletion of the abovementioned provisions;

5. Requests, furthermore,

that the Proposal for a Directive respect the system of criminal law in the Member States to a greater extent:

- the definitions of criminal offences should leave room for sanctioning less serious cases as administrative offences, in accordance with the principle of subsidiarity of criminal repression (ultima ratio);
- the proposed minimum levels of maximum terms of imprisonment and the proposed limitation periods should not interfere in the systematic grading of terms of imprisonment and limitation periods in the criminal code according to the gravity of individual types of criminal offences;

6. Supports

the Government's requests for clarifications of the definitions of criminal offences related to protected species: the criminal offence defined as trading in specimens should also include other unauthorised handling of such specimens and the criminal offence defined as conduct leading to a deterioration of a habitat within a protected site should also include the killing or destroying of species, for which the site is protected;

II.

1. Requests

the Government to inform the Senate by the 30th of September 2022 about the way this Resolution was taken into account;

2. Authorises

the President of the Senate to forward this Resolution to the European Commission.

Miloš Vystrčil
sign manual
President of the Senate

Zdeněk Hraba
sign manual
Senate Verifier