



EUROPEAN COMMISSION

*Brussels, 28.6.2022
C(2022) 4613 final*

Dear President,

The Commission would like to thank the Senát for its Opinion on the Commission's 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 {COM(2021) 851 final}.

The Commission appreciates the Senát's general support of the proposal and its goal to step up the fight against environmental crime.

The proposal forms part of a broader package of ambitious measures to improve Union legislation to protect the environment, biodiversity and climate, as set out in the European Green Deal. It is part of the EU's legislative priorities for 2022.

The Commission takes note of the Senát's concerns regarding the legal basis for some provisions of the Commission's proposal, notably with regard to the introduction of new sanction types that are not present in the law of all Member States (in particular a temporary ban on running for elected or public office) and with regard to the proposed provision on the right of the public concerned to participate in criminal proceedings.

Regarding sanctions, the Commission strives to improve their effectiveness, dissuasiveness, and proportionality, as sanctions imposed in practice have generally been too low to be dissuasive. The proposal therefore aims to provide the trial judge with a set of sanctions and measures to allow for effective and tailored punishment in the individual case. Article 83 (2) of the Treaty on the Functioning of the European Union provides for a legal basis to establish minimum rules on types and levels of sanctions, if necessary to ensure compliance with EU policies. As regards the specific sanction of a temporary ban on running for elected office, the Commission was guided by the general principle that convicted criminals should not be considered fit to hold an elected or public office. Such principle is an integral part of many EU Member States' legal systems. It is also applied with regard to the elections to the European Parliament.

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CZ – 118 01 PRAGUE 1*

With regard to Article 14 of the Commission proposal on rights for the public concerned to participate in criminal proceedings, this Article does not introduce new procedural rules. This Article only requires Member States to make sure, in accordance with their national legal systems, that members of the public concerned have the rights to participate in criminal proceedings that exist in their respective legislative systems also concerning the criminal offences covered by the proposed Directive. As explained in recital 26 of the proposal, this should be done within the scope of the relevant national legal framework and subject to relevant national procedural rules. The proposal therefore does not interfere with national criminal procedural law.

It should be noted that the Commission's proposal is without prejudice to the administrative systems of the Member States. The possibility to hold environmental offenders criminally liable does not exclude administrative proceedings.

With regard to minimum levels of maximum terms of imprisonment, the proposed levels reflect the gravity of environmental crime, which has reached dimensions that endanger life on the planet. The length of the limitation periods reflects the fact that environmental crime is often detected only at considerable time after it was committed.

As far as the trading of protected species is concerned, the Commission will assess whether the scope of the respective Article of its proposal could be extended.

The negotiations in the Council continue with a view to reaching a common position of the Member States.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Didier Reynders
Member of the Commission*