



**COUNCIL OF  
THE EUROPEAN UNION**



Brussels, 21 May 2008  
9676/08 (Presse 136)

## **Protection of the environment through criminal law**

The Permanent Representatives Committee (COREPER) today confirmed support for a draft overall compromise on the proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law.

The Presidency has therefore sent a letter to Parliament confirming that an agreement at first reading with the European Parliament is possible.

If the text is agreed by the Parliament, the Directive will be finally adopted in co-decision by both the Parliament and the Council of the European Union at a later stage.

### Background

The Directive establishes measures relating to criminal law in order to protect the environment more effectively and in this respect it will fill a gap in the area of environmental protection.

The Directive establishes a minimum set of conducts that should be considered criminal offences throughout the EU when unlawful and committed intentionally (or with at least serious negligence). Inciting, aiding and abetting of such conducts will equally be considered a criminal offence.

## **P R E S S**

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Those conducts are:

- the discharge, emission or introduction of materials 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 environment (quality of air, quality of soil, quality of water, animals or plants);
- the collection, transport, recovery and disposal of **waste**, which causes or is likely to cause death or serious injury to any person or substantial damage to the environment ;
- the **shipment of waste**, whether executed in a single shipment or in several shipments which appear to be linked ;
- the **operation of a plant** in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant causes or is likely to cause death or serious injury to any person or substantial damage to the environment ;
- the production, processing, handling, use, holding, storage, transport, import, export and disposal of **nuclear materials or other hazardous radioactive substances** which causes or is likely to cause death or serious injury to any person or substantial damage to the environment ;
- the killing, destruction , possession, taking and trading of specimens of **protected wild fauna or flora species**, except for cases when the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species ;
- any conduct which causes the significant deterioration of a habitat within a **protected site** ;
- production, importation, exportation, placing on the market or use of **ozone-depleting substances**.

## Penalties

Each Member State shall take the necessary measures to ensure that these offences are punishable by effective, proportionate and dissuasive criminal penalties.

Legal persons could be held liable for these offences in cases where such offences have been committed for their benefit by a person, acting either individually or as a part of an organ of the legal person, who has a leading position within the legal person based on three criteria :

- a power of representation of the legal person, or
- an authority to take decisions on behalf of the legal person, or
- an authority to exercise control within the legal person.

### **Transposition**

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 24 months from the date of its entry into force.

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