

Protection of the environment through criminal law

2007/0022(COD) - 20/12/2007

On 20 December 2007, the delegations became aware of a document for information issued by the Presidency (within the framework of “other points” of the Environment Council) on the proposal for a Directive of the European Parliament and of the Council on environmental protection through criminal law.

In this context, the Council recalls that, on 9 February 2007, the Commission submitted a proposal for a Directive on environmental protection through criminal law, which is of particular importance for the Member States of the European Union.

They consider that a uniform level of protection throughout Europe in the field of environmental criminal law is both necessary and appropriate. The Member States had already made this clear by agreeing on the Framework Decision on the protection of the environment through criminal law (see [CNS/2000/0801](#)), which was annulled on grounds of lack of competence by the European Court of Justice in its judgment of 13 September 2005 (on this point, refer to the file synopsis on “[Environmental protection: combating crime, criminal offences and penalties](#)”). The proposal for a Directive is intended to replace the annulled Framework Decision and thus fill a gap in the area of environmental protection through criminal law.

The Presidency continued the work initiated by the German Presidency, regarding this proposal as fundamental for the development of the protection of the environment. Six working party meetings have taken place to date, all of which were marked by constructive cooperation among the Member States and the Commission.

General consensus was reached among Member States on the inclusion of an Annex with the list of Community legislation, infringement of which results in unlawful conduct pursuant to Article 2(a) of the proposed Directive.

Following the decision taken by the Court of Justice on 23 October in Case C-440/05 pertaining to enforcement of the law against ship-source pollution, and the political framework set out by the Ministers of Justice at the lunch on 9 November, the working party reached broad agreement on the majority of the directive’s articles. Broad consensus was reached in the discussion on Articles 1, 2(a), 2(b), 2(d), 4, 5, 6, 7, 8, 9, 10 and 11 of the Proposal, with only a very limited number of scrutiny reservations remaining, lodged by some Member States and by the Commission.

Notwithstanding the above, outstanding issues remain, in particular regarding Article 2, subparagraph c), and Article 3, subparagraphs a), b), f), e) and h), which essentially concern criminal policy decisions.

Contacts took place with the European Parliament with a view to facilitating a first reading agreement in the first half of 2008. The Presidency met the rapporteurs of the two committees involved in the co-decision procedure and took note of the European Parliament's high level of ambition.

Given the considerable progress made regarding this directive and the generally favourable view of the aims of the instrument and the contributions made by the

Member States, the Presidency believes that additional steps can be taken to further consolidate the agreement reached.

