Basic information

2000/0801(CNS) CNS - Consultation procedure Decision	Procedure completed
Environmental protection: combating serious crime. Framework Decision. Initiative Denmark **Subject** 3.70.16 Law and environment, liability	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	DI LELLO FINUOLI Giuseppe (GUE/NGL)	03/04/2000

Former committee responsible	Former rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	DI LELLO FINUOLI Giuseppe (GUE/NGL)	03/04/2000

Former committee for opinion	Former rapporteur for opinion	Appointed
ENVI Environment, Public Health, Consumer Policy	SCHÖRLING Inger (V/ALE)	03/04/2000

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2482	2003-01-27
Justice and Home Affairs (JHA)	2337	2001-03-15

Key events

Date	Event	Reference	Summary
28/01/2000	Legislative proposal published	05343/2000	Summary
18/02/2000	Committee referral announced in Parliament		
21/06/2000	Vote in committee		Summary
21/06/2000	Committee report tabled for plenary, 1st reading/single reading	A5-0178/2000	
07/07/2000	Decision by Parliament	T5-0347/2000	Summary

07/07/2000	Debate in Parliament		
15/03/2001	Debate in Council		Summary
20/12/2001	Amended legislative proposal for reconsultation published	15525/2001	Summary
14/01/2002	Formal reconsultation of Parliament		
19/03/2002	Vote in committee		Summary
19/03/2002	Committee report tabled for plenary, reconsultation	A5-0080/2002	
08/04/2002	Debate in Parliament		
09/04/2002	Decision by Parliament	T5-0151/2002	Summary
27/01/2003	Act adopted by Council after consultation of Parliament		
27/01/2003	End of procedure in Parliament		
05/02/2003	Final act published in Official Journal		

Technical information

Procedure reference	2000/0801(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on European Union (after Amsterdam) M 031 Treaty on European Union (after Amsterdam) M 034-p2 Rules of Procedure EP 050
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/15943 LIBE/5/12548

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0178/2000 OJ C 121 24.04.2001, p. 0008	21/06/2000	
Text adopted by Parliament, 1st reading/single reading		T5-0347/2000 OJ C 121 24.04.2001, p. 0484-0494	07/07/2000	Summary
Committee final report tabled for plenary, reconsultation		A5-0080/2002	19/03/2002	
Text adopted by Parliament after reconsultation		T5-0151/2002 OJ C 127 29.05.2003, p. 0028-0137 E	09/04/2002	Summary

Council of the EU

Document type	Reference	Date	Summary

Legislative proposal	05343/2000 OJ C 039 11.02.2000, p. 0004	28/01/2000	Summary
Amended legislative proposal for reconsultation	15525/2001	20/12/2001	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Justice and Home Affairs act 2003/0080 OJ L 029 05.02.2003, p. 0055-0058	Summary

Environmental protection: combating serious crime. Framework Decision. Initiative Denmark

2000/0801(CNS) - 07/07/2000 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, under consultation procedure, the report drafted by Mr Giuseppe DI LELLO FINUOLI (GUE/NGL, I) on the initiative of the Kingdom of Denmark with a view to the adoption of a Council framework decision on combating serious environmental crime. The text calls for harmonisation of penalties across the EU and argues in favour of a system of heavier penalties than are currently enforced. The text also allows for the possiblity of bringing criminal proceedings against legal persons, as well as against natural persons. In relation to the decisons of the courts and, whenever possible, other bodies, they shall be publicly available in accordance with Article 9(4) of the Convention on access to information, public participation and access to justice in environmental matters, done at Aarhus, Denmark, on 25 June 1998.

Environmental protection: combating serious crime. Framework Decision. Initiative Denmark

2000/0801(CNS) - 20/12/2001 - Amended legislative proposal for reconsultation

By letter dated 11 February 2000, the Council consulted the European Parliament on the Danish initiative with a view to the adoption of a Council Framework Decision on the protection of the environment through criminal law. The Parliament gave its opinion on this proposal on 7 July 2000. In parallel, the Commission proposed a draft Directive of the European Parliament and of the Council aiming to penalise serious crimes against the environment (COD/2001/0076), proposal on which the Parliament has not yet given its opinion. The Council is examining in the meantime the Danish initiative and has made substantial amendments to the text which the European Parliament has already commented on. Consequently, it called on the Parliament to comment yet again on the text in the framework of reconsultation. The main amendments made by the Council mainly concern the legal base of this initiative. In fact, after the debate, it appeared that the Council considered this proposal, specified by the Commission in March 2001, and has come to the conclusion that the majority required for its adoption by the Council can not be obtained because that majority considered that the proposal went beyond the powers attributed to it by the Treaty establishing the European Community and that the objectives could be reached by adopting a Framework Decision on the basis of Title VI of the Treaty on European Union. Many Member States considered in particular that the Commission's proposal (please refer to COD/2001/0076) falls outside of the competences allocated to the Commission by the Treaty and that it is possible to reach the objectives by adopting a framework decision on the basis of Title VI of the Treaty. The Council also considered that the present Framework Decision, based on Article 34 TEU, is a correct instrument to impose on the Member States the obligation to provide for criminal sanctions. The revised draft Framework Decision has finally established a wide-ranging jurisdiction with respect to environmental offences in such a way as to avoid that physical or legal persons would escape prosecution by the simple fact that the offence was not committed in their territory. It should be noted that the Commission has not indicated that it is prepared to modify its proposal either by changing its legal base or splitting it into two legal instruments, one based on Article 175 TEC and another based on Article 34 TEU.

Environmental protection: combating serious crime. Framework Decision. Initiative Denmark

2000/0801(CNS) - 09/04/2002 - Text adopted by Parliament after reconsultation

The European Parliament adopted a resolution on the framework decision regarding the protection of the environment through the criminal law, based on the report by Giuseppe DI LELLO FINUOLI (EUL/NGL, Italy). (Please refer to the document dated 19/03/02.) Parliament shared the views expressed by the Commission, when the latter asked the Council not to take any action on environmental criminal law before the adoption of the directive on the protection of the environment through criminal law. (Please see COD010076). It felt, nevertheless, that it should give its opinion on the framework decision so that the Council could take it into account.

Environmental protection: combating serious crime. Framework Decision. Initiative Denmark

2000/0801(CNS) - 27/01/2003 - Final act

PURPOSE : to protect the environment through criminal law. COMMUNITY MEASURE : Council Framework Decision 2003/80/JHA on the protection of the environment though the criminal law. LEGAL CONTEXT : the Justice and Home Affairs Council, concerned about the progression of infringements to the detriment of the environment, recognised the need for establishing an 'acquis communautaire' intended to fight environmental criminality. Noting moreover that the infringements with the detriment of the environment exceed, by their effects, the borders of the States where these infringements are made, the Council wants answers to be found in order to fight against this type of criminality. Consequently, the Council adopted this framework decision, proposed by a Danish initiative, in order to establish police and judicial co-operation on the matter and to lay down minimum standards aiming at penalising, in the Member States, the serious offences against the environment. It should be noted that the Commission had also presented a proposal relating to the same topic (see COD/2001/0076) based on Article 175 of the TEC and aiming at establishing minimum standards of environmental protection through criminal law. However, the Council not having managed to find the majority necessary to adopt this text, decided to adopt the present framework decision based on Article 34 of the TEC which constitutes a suitable instrument to impose on the Member States the obligation to provide penal sanctions on their territory. CONTENT : according to this Framework decision, each Member State shall take the necessary measures to establish as criminal offences under its domestic law: - the discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which causes death or serious injury to any person; - the unlawful discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which causes or is likely to cause their lasting or substantial deterioration or death or serious injury to any person or substantial damage to protected monuments, other protected objects, property, animals or plants; - the unlawful disposal, treatment, storage, transport, export or import of waste, including hazardous waste, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants; - the unlawful operation of a plant in which a dangerous activity is carried out and which, outside the plant, causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants; - the unlawful manufacture, treatment, storage, use, transport, export or import 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 quality of air, soil, water, animals or plants; - the unlawful possession, taking, damaging, killing or trading of or in protected wild fauna and flora species or parts thereof, at least where they are threatened with extinction as defined under national law; - the unlawful trade in ozone-depleting substances; whencommitted intentionally. As regards the participation and instigation, each Member States shall take the necessary measures to ensure that participating in or instigating such behaviour is punishable. Concerning the sanctions for legal persons, each Member State shall take the necessary measures to ensure that a legal person held liable is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions such as: a) exclusion from entitlement to public benefits or aid; b) temporary or permanent disqualification from the practice of industrial or commercial activities; c) placing under judicial supervision; d) a judicial winding-up order; e) the obligation to adopt specific measures in order to avoid the consequences of conduct such as that on which the criminal liability was founded. With regard to the extradition and prosecution, any Member State which, under its law, does not yet extradite its own nationals shall take the necessary measures to establish its jurisdiction over the offices provides for above when committed by its own national outside its own territory. ENTRY INTO FORCE : 5 February 2003. IMPLEMENTATION IN THE MEMBER STATES : 27 January 2005. Before 27 April 2005, Member States shall communicate to the general Secretariat of the Council and to the Commission the texts of the provisions transposing it in their national law the obligations imposed on them by this Framework Decision. On the basis of that information and a written report by the Commission, the Council shall no later than 27 January 2006 check the extent to which the Member States have take the measures necessary to comply with this Framework Decision. The Framework Decision shall apply to Gibraltar.

Environmental protection: combating serious crime. Framework Decision. Initiative Denmark

2000/0801(CNS) - 15/03/2001

The Council reached a preliminary agreement concerning the objectives and, in principle, the substance of the Draft Framework Decision on the protection of the environment through criminal law and instructed the Council's relevant working groups to consider whether it would be necessary to complement the Framework Decision in the light of the Commission proposal on a draft directive on the protection of the environment through criminal law. The Council agreed in due course to reconsult the European Parliament on the basis of the agreement reached by the Council. The Council noted requests from Ministers that discussions in the Council on the appropriate choice of legal base (3rd or a combined 1st and 3rd Pillar instrument) to reach the objectives on this issue had not been finalised.

Environmental protection: combating serious crime. Framework Decision. Initiative Denmark

2000/0801(CNS) - 28/01/2000 - Legislative proposal

PURPOSE: To present measures to combat serious environmental crime. CONTENT : This is an initiative taken by Denmark in order to adopt a Council Framework Decision on environmental crime. 'Serious environmental crime' is defined as pollution of air, water, soil, or storage or disposal of waste, resulting in substantial damage to the environment or presenting an obvious risk of such damage. There must be aggravating circumstances present, a term which is also defined. The draft decision provides for the investigating and punishment of serious environmental crime. The main points are: - Member States must ensure that legal persons can be held liable. The offence must be punishable under criminal law. - It must be possible to seize and confiscate equipment and proceeds or assets of similar value in connection with the crime under national laws. - Member States must co-operate as extensively as possible in investigating and prosecuting the crime. This includes considering a limitation on the scope of any reservations they may have made to the 1959 European convention on Mutual Assistance in Criminal Matters. - Provisions for mutual assistance includes the provision that Member States shall, unsolicited, pass on to another Member State specific information on serious environmental crime where the supply of such information is appropriate for the conduct of an investigation or a prosecution. - Criminal proceedings must be capable of transfer to another Member State in accordance with international treaty. - Each Member State must designate one or more contact points for the collection and exchange of information on serious environmental crime. At least one contact point in each Member State has to be manned around the clock. - The Council's Secretariat is the 'keeper of the register', which contains special skills and know-how. Should Europol be assigned jurisdiction to deal with environmental crime, the responsibility will be transferred. Member States must supply information on special skills, expertise and know-how for the register.