Basic information

2001/0076(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure lapsed or withdrawn
Environmental protection: combating crime, criminal offences and penalties **Subject** 3.70.16 Law and environment, liability 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health, Consumer Policy	OOMEN-RUIJTEN Ria (PPE-DE)	29/05/2001

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	DI LELLO FINUOLI Giuseppe (GUE/NGL)	25/04/2001
JURI Legal Affairs and Internal Market	WUORI Matti (V/ALE)	29/05/2001

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2477	2002-12-19

European Commission

Commission DG	Commissioner
Justice and Consumers	FRATTINI Franco

Key events

Date	Event	Reference	Summary
13/03/2001	Legislative proposal published	COM(2001)0139	Summary
02/04/2001	Committee referral announced in Parliament, 1st reading		
21/03/2002	Vote in committee, 1st reading		Summary
21/03/2002	Committee report tabled for plenary, 1st reading	A5-0099/2002	

08/04/2002	Debate in Parliament		
09/04/2002	Decision by Parliament, 1st reading	T5-0147/2002	Summary
30/09/2002	Modified legislative proposal published	COM(2002)0544	Summary
19/12/2002	Debate in Council		
13/09/2005	Additional information		Summary
09/02/2007	Proposal withdrawn by Commission		
13/03/2008	Additional information		Summary

Technical information

Procedure reference	2001/0076(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 175-p1
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	ENVI/5/14580

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0099/2002	21/03/2002	
Text adopted by Parliament, 1st reading/single reading		T5-0147/2002 OJ C 127 29.05.2003, p. 0027-0119 E	09/04/2002	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2001)0139 OJ C 180 26.06.2001, p. 0238 E	13/03/2001	Summary
Modified legislative proposal	COM(2002)0544 OJ C 020 28.01.2003, p. 0284 E	30/09/2002	Summary

Additional information

Source	Document	Date

European Commission	EUR-Lex	

Environmental protection: combating crime, criminal offences and penalties

2001/0076(COD) - 13/03/2001 - Legislative proposal

PURPOSE : to ensure a more effective application of Community law on the protection of the environment by establishing throughout the Community a minimum set criminal offences. CONTENT : in order to guarantee a high level of protection of the environment the increasing problem of environmental crime must be tackled. The Community has adopted numerous acts of legislation protecting the environment. Member States have to transpose and implement those acts. Experience has shown, however, that the sanctions currently established by the Member States are not always sufficient to achieve full compliance with Community law. Not all Member States provide for criminal sanctions against the most serious breaches of Community law protecting the environment. Therefore, a minimum standard on constituent elements of criminal offences in breach of Community law protecting the environment needs to be established. In order to ensure its better and harmonised application in all Member States, this objective can be better achieved by the Community than at the level of the Member States. The proposed draft Directive shall only apply to activities which are in breach of Community law protecting the environment and/or rules adopted by Member States in order to comply with such Community law. Definitions of constituent elements of criminal acts are therefore to be read as corresponding definitions in existing Community law. The proposal does not cover all activities regulated by Community law, but only important types of pollution which can be attributed to individuals or legal persons. For instance, the directive would not apply to pollution caused by diffuse sources, even it is widely covered by Community law setting up quality objectives. With regard to natural persons, the Directive would oblige Member Sates to provide for effective, dissuasive and proportionate criminal penalties against breaches of Community law. In order to protect the environment effectively, it is important to include sanctions against complicity (participation and instigation) in the offences defined in Article 3. In serious cases, Member States would have to be provided for the possibility of imprisonment. As concerns legal persons, it is essential for effective enforcement of Community law protecting the environment that legal persons can be held liable and that sanctions against legal persons are taken throughout the Community. However, for some Member States it might be difficult to provide for criminal sanctions against legal persons without changing fundamental principles of their national legal systems. This proposal therefore sets a minimum standard of environmental protection through criminal law. According to Article 176 EC, Member States are free to maintain or to introduce more stringent protective measures. For instance, they may establish additional offences and/or additional types of sanctions or penalties.

Environmental protection: combating crime, criminal offences and penalties

2001/0076(COD) - 09/04/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Mrs Ria OOMEN-RUIJTEN (EPP-ED, NL) on the draft directive for environmental protection through the criminal law. Parliament makes it clear in the recitals that the directive contains only minimum rules, thereby leaving Member States free to introduce or apply more stringent penalties. Overall, the Parliament adopted the amendments tabled by the committee responsible (please refer to the summary dated 21/03/02). On a technical level, the Parliament preferred this proposal for a directive as opposed to the Council's proposed framework decision on the criminalisation of activities harmful to the environment. The framework decision lists a number of activities which are to be deemed criminal offences when they are committed intentionally or with serious negligence. (Refer to CNS/2000/0801). The Parliament wants to make the framework decision dependent on the proposed directive and deletes those parts which are covered by the directive. Parliament has amended the Commission's draft directive to ensure that incitement to breaking the law is also classed as an offence. It wants extradition to be possible in connection with custodial sentences, so that offenders can be punished in the country where the damage was done. It has added pollution of the air, soil and water with harmful substances or ionising radiation to the list of offences and has deleted the annex itemising Community legislation protecting the environment, preferring to refer to breaches of law in general terms.

Environmental protection: combating crime, criminal offences and penalties

2001/0076(COD) - 30/09/2002 - Modified legislative proposal

In its amended proposal, the European Commission accepted in full or partially 16 out of the 24 amendments adopted by the Parliament at its plenary session in April 2002. The amendments concern the following issues: - legal basis : the Commission agrees with the Parliament and proposes that the proposed Directive be based on Article 175(1) TEC); - subsidiarity principle :the amendment makes it clear that criminal law provisions are to be deployed at national level and that the Directive is not intended to empower the Community to intervene in national criminal law provisions; - Community competence : the amendment clarifies that, in the context of the distribution of powers between the Community and the Union, the proposal for a Directive under the first pillar is the appropriate legal instrument and that Article 175 (1) TEC is the correct legal basis for the protection of the environment through criminal law in the Community. It is fully in line with the Commission's position concerning the Community competence to oblige Member States to provide for criminal sanctions against breaches of environmental legislation; - reference to the Tampere European Council: referring to the political mandate given by the Tampere European Council, which identifies environmental crime as a priority sector where the Member States should agree common definitions and sanctions in the field of national criminal law. It is a political statement that is not appropriate in the recitals of a legal text; - clarifying that the use of criminal sanctions is indispensable for the purpose of enforcing environmental rules and that the EC Treaty provides scope for criminal sanctions; - more stringent national measures : Member States are free to maintain or introduce more stringent protective measures; - "production" of hazardous waste : Community environmental legislation does not provide for a general prohibition against the production of hazardous waste. For this reason, it is impossible to refer to production in the proposal; - extradition : this amendment suggests adding a reference to the fact that prison sentences referred to in the Directive are to be subject to extradition or surrender. Requiring that the penalties be such as to give rise to extradition is in conformity with other UE texts and is accepted in principle. The amendment is slightly reworded. On the other hand, the

Commission rejects the amendments which make erroneous reference to Article 31 TEU. The reference to Article 31 (e) TEU focuses on EU ("third pillar") competence to provide for judicial cooperation in the fields of organised crime, terrorism and illicit drug-trafficking under the Title VI of the EU Treaty. It also rejects the amendment concerning the addition of a reference to instigation in the definition of "activities". It also rejects the idea of the deletion of the Annex to the proposal. This Annex has been considered as necessary as the Diretcive will oblige the member States to provide for criminal sanctions within their national legalsystems and that it would be impossible to provide so such criminal sanctions without them to be clearly defined. In addition, the Commission rejects more technical amendments for the reasons of legal uncertainty (in particular, the amendment concerning "harmful substances", the term is considered to be toovague and "nuclear materials" (it is legally impossible to provide for criminal sanctions against unauthorised activities dealing with nuclear materials under the legal basis of the proposal for a Directive, Art. 175 TEC. Lastly, the Commission rejects the proposal to add the word "criminal" to Article 4 of the proposal for linguistic reasons (this word does not have the same meaning in all the Community languages and risks slowing down the adoption of the Directive.