

## Beantwoording vragen environmental crime directive

General questions	Antwoord
<p>1. Do you think the EU should act to improve environmental protection through criminal law in the Member States?</p> <ul style="list-style-type: none"> <li>• Yes, EU action is necessary.</li> <li>• No EU-action. Improvement should be left to the Member States.</li> <li>• No improvement necessary. The level of protection under the current Directive is fine.</li> <li>• No answer.</li> </ul>	<p>Yes, EU action is necessary.</p>
<p>2. If you consider that EU action is necessary, what should be addressed by a revised Environmental Crime Directive? Several answers are possible.</p> <ul style="list-style-type: none"> <li>• Clarify and expand the scope of the Directive</li> <li>• Improve the description of offences to be criminalised and clarify terms used</li> <li>• Improve the deterrence of sanctioning of environmental crime</li> <li>• Improve cross-border cooperation between Member States</li> <li>• Improve the collection, sharing and reporting of statistical data on environmental crime</li> <li>• Improve the effectiveness of law enforcement within Member States including training and specialisation</li> <li>• Other</li> </ul>	<ul style="list-style-type: none"> <li>• Clarify and expand the scope of the Directive</li> <li>• Improve the description of offences to be criminalised and clarify terms used</li> <li>• Improve the deterrence of sanctioning of environmental crime</li> <li>• Improve cross-border cooperation between Member States</li> <li>• Improve the effectiveness of law enforcement within Member States including training and specialisation</li> </ul> <p><i>Additional comment</i> An important challenge with regard to the Directive is that relevant (judiciary) government actors should be made more actively aware of its content and requirements in national legislation in order to apply the norms and policies in their daily practice. This hampers cross border criminal investigations. In view of this, initiatives to stimulate that the Directive becomes a more 'living' document for those actors could be helpful.</p>
<p>3. Options to improve the approach to define the scope of the Directive.</p> <ul style="list-style-type: none"> <li>• No action. The current approach (description of offences to be criminalised in Article 3, definition of unlawfulness in Article 2 and the list of relevant legislation in annexes) works fine.</li> <li>• Update the Directive and its annexes and include new environmental areas or legislation that is currently not covered but should be covered.</li> <li>• Refer to the breach of related administrative obligations only in general terms without listing the relevant legislation explicitly in annexes (i.e. remove the annexes).</li> <li>• Change the current approach: define environmental crime independently of a breach of environmental administrative law.</li> <li>• Other</li> </ul>	<p><i>Options: Not useful/Useful/Very useful/No answer</i></p> <p>Not useful</p> <p>Useful</p> <p>Not useful</p> <p>Not useful</p>
<p>4. Legislation not covered by the</p>	<p>The EU Timber Regulation (Regulation (EU)</p>

<p>Environmental Crime Directive</p> <ul style="list-style-type: none"> <li>In your view, which environmental area or specific legislation is not covered by the Directive, but should be covered?</li> </ul>	<p>No 995/2010)</p>
<p>5. Options regarding vague terms in the definitions of environmental crime Which measures do you consider useful to improve the definitions of environmental crime?</p> <ul style="list-style-type: none"> <li>Define more precisely vague terms (e.g. 'substantial damage', 'negligible' or 'non-negligible' quantities) in the Directive .</li> <li>Delete such vague elements from the definitions and leave it to the national authorities to decide whether a particular incident is severe enough to be prosecuted.</li> <li>Provide non-binding EU-guidance on the interpretation of vague elements in the definitions.</li> <li>Do not act at EU level but leave the interpretation of vague terms in the Directive to Member States and national courts.</li> <li>No action necessary. The elements in Article 3 of the Directive are clear enough.</li> <li>Other</li> </ul>	<p><i>Options: Not useful/Useful/Very useful/No answer</i></p> <p>Useful</p> <p>Not useful</p> <p>Very useful</p> <p>Not useful</p> <p>Not useful</p>
<p>6. Measures to foster a more deterrent criminal sanctioning system with regard to environmental crime To improve the deterrent effect of criminal sanctions for environmental crime, which measures do you consider useful?</p> <ul style="list-style-type: none"> <li>Maximum sanction levels that must be available to judges (for example at least 4 years of imprisonment).</li> <li>Definitions of aggravating circumstances (for example for environmental crimes committed in the context of organised crime, the severity of the damage caused, actions of the offender to obstruct administrative controls and inspection) that should lead to higher sanction levels to be imposed in practice.</li> <li>The provision of a broad range of accessory sanctions such as restoration of damage, exclusion from public procurement procedures, unwinding of a company, shutting down production- or other sites used for the crime committed, seizure of profits and material used to commit the crime.</li> <li>Linking the level of imposed penalties to the profits expected or generated and to the financial situation of businesses involved in committing the crime.</li> <li>EU-non-binding guidance/best practices regarding sanction practices in the Member States.</li> </ul>	<p><i>Options: Not useful/Useful/Very useful/No answer</i></p> <p>No answer</p> <p>Useful</p> <p>Useful</p> <p>Useful</p> <p>Very useful</p>

<ul style="list-style-type: none"> <li>• Dissemination of information on sanction practices and imposed sanctions with regard to environmental crime among Member States.</li> <li>• EU-guidance to Member States to better coordinate their administrative and criminal sanctioning systems.</li> <li>• No action at EU level is necessary.</li> <li>• Other</li> </ul>	<p>Very useful (Make use of existing networks like the European Network of Prosecutors for the Environment (ENPE))</p> <p>Useful</p> <p>Not useful</p>
<p>7. Measures to improve cross-border cooperation Which measures do you consider useful to improve cross-border cooperation?</p> <ul style="list-style-type: none"> <li>• Include a provision in the Directive to require Member States to provide for common investigative tools that should be available in all Member States to investigate environmental crimes (e.g. wire tapping, surveillance, etc.).</li> <li>• Include a provision in the Directive to require Member State authorities to cooperate with each other and with EU-agencies mandated with facilitating cross-border cooperation such as Europol, OLAF and Eurojust.</li> <li>• Include a provision in the Directive to oblige Member States to provide professional training on cross-border cooperation.</li> <li>• Provide EU-guidelines on cooperation between Member States and how to make use of EU agencies such as Eurojust, Europol and OLAF.</li> <li>• Include a provision in the Directive on rules on jurisdiction with regard to cross-border environmental crimes in the Directive.</li> <li>• Other.</li> <li>• No further action necessary at EU level.</li> </ul>	<p><i>Options: Not useful/Useful/Very useful/No answer</i></p> <p>Not useful</p> <p>Not useful</p> <p>Useful</p> <p>Useful</p> <p>Not useful</p> <p>Not useful</p>
<p>8. Options to foster the practical implementation of the Directive Which measures should be taken by the European Commission to foster the effectiveness of law enforcement in the Member States?</p> <ul style="list-style-type: none"> <li>• Include in the Directive a general provision to oblige Member States to implement the Directive.</li> <li>• Include in the Directive provisions to oblige Member States to take specific measures to foster practical implementation such as the provision of training or the set up specialised units, to oblige relevant national law-enforcing authorities to exchange information and cooperate with each other, to oblige national authorities to cooperate with other national authorities, to take</li> </ul>	<p><i>Options: Not useful/Useful/Very useful/No answer</i></p> <p>Useful</p> <p>Useful</p>

<p>measures to raise public awareness of the harmfulness of environmental crime.</p> <ul style="list-style-type: none"> <li>• Provide non-binding guidance to Member States on the establishment of overarching national enforcement strategies involving all levels of the enforcement chain (administrative controls and monitoring, tax authorities, police, prosecution, judiciary).</li> <li>• Provide guidance to Member States on specialised training/specialisation of law enforcement officials, criminal judges and prosecutors with regard to environmental crime issues.</li> <li>• A combination of binding measures and non-binding guidance (as outlined above)</li> <li>• Other</li> <li>• No additional measures necessary at EU level.</li> </ul>	<p>Useful</p> <p>Very useful</p> <p>Useful</p> <p>Not useful</p>
<p>9. Measures to foster and improve the collection of statistical data on environmental crime Which measures do you consider useful to foster the collection of accurate, complete and comparable data across Member States?</p> <ul style="list-style-type: none"> <li>• Oblige Member States to collect and regularly report to the Commission statistical data related to environmental crime.</li> <li>• Non-binding guidelines of the Commission on the collection of statistical data related to environmental crime.</li> <li>• A combination of a) and b).</li> <li>• Professional training and awareness-raising for national law enforcement authorities regarding the importance of collecting, processing and sharing of statistical data, fostered by the Commission.</li> <li>• The development at EU-level of common standards on the collection of statistical data on environmental crime proceedings.</li> <li>• The provision of a common platform to collect and exchange statistical data at EU-level.</li> <li>• No action at EU-level.</li> <li>• Other</li> </ul>	<p><i>Options: Not useful/Useful/Very useful/No answer</i></p> <p>No answer</p> <p>Useful</p> <p>Useful No answer</p> <p>No answer</p> <p>No answer</p> <p>Not useful</p>