



2020/2027(INI)

16.12.2020

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Legal Affairs

on the liability of companies for environmental damage
(2020/2027(INI))

Rapporteur for opinion: Saskia Bricmont

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that environmental protection is a fundamental right according to Article 37 of the EU Charter of Fundamental Rights, as confirmed by case-law of the Court of Justice of the European Union¹; considers that a clean and unpolluted environment is essential for human development; stresses that a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union;
2. Considers that today's environmental degradation has far-reaching and long-lasting consequences for a wide range of human rights, including the right to life, liberty and health; recalls that damage to ecosystems and the environment has an impact on sustainable development and access to natural resources, and risks triggering disease, other environmental disasters, irreversible climate change, contamination of the food chain and reduced life expectancy;
3. Stresses that environmental crimes undermine the rule of law, pose a threat to peace and security and seriously hamper the establishment of an area of freedom, security and justice in the EU;
4. Considers that comprehensive and effective prevention measures and dissuasive and proportionate criminal sanctions are important deterrents against environmental damage; deplores the low detection, investigation, prosecution and conviction rates for environmental crime; considers that damage to the environment must be compensated;
5. Deplores the lack of effective implementation of EU directives that aim to establish criminal liability of legal persons for environmental offences²; emphasises the important role of soft law instruments, such as guidance papers on the interpretations of legal terms used in the directives, evaluation of damage, or information and comparison of sanction practices in the Member States, in enhancing the effectiveness of implementation of the directives; stresses the need to introduce much more timely and stringent regulatory action in the Member States, if necessary opting for a regulation instead of a directive, introducing directly applicable rules to accompany the Green New Deal policy that the EU considers a top priority today;
6. Stresses the need to update such legislation after a thorough impact assessment, and to ensure the effective enforcement of existing legislation;
7. Calls on the Commission and the Member States to allocate appropriate financial and human resources to preventing, investigating and prosecuting environmental crimes, and to ensure a high level of specialisation and expertise of the authorities involved,

¹ See, for example, CJEU, case C-24/19 or case C-594/18 P.

² Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage, Directive 2008/99/EC on the protection of the environment through criminal law, and Directive 2009/123/EC amending Directive 2005/35/EC.

including prosecutors and judges, with a view to more effectively prosecuting and sanctioning environmental crime; calls, in this regard, on the Member States to set up or reinforce specialised units within their national police services at the appropriate levels for the investigation of environmental offences; calls, furthermore, on the Commission and the Member States to make sure that all Member States have proper environmental crisis management procedures in place at both national and transnational levels;

8. Urges the Commission and the Council to consider environmental crimes as a priority; calls on the Commission to make full use of Article 83(2) TFEU and to consider the adoption of an overall framework directive on environmental offences and effective and proportionate sanctions, defining the behaviours to be punished, the nature of infringements, the types of offences, the reparation regimes, the restoration measures and the sanctions, including overall liability of legal and individual persons; calls on the Commission to evaluate the possibility of including environmental crimes among the categories of offences in Article 83(1) TFEU;
9. Welcomes the Commission's commitment to submit a legislative proposal on mandatory due diligence legislation in global supply chains; recognises that unsustainable practices and lack of ambition for environmental protection within companies are a hindrance for reaching the objectives set in the UN's Sustainable Development Goals (SDGs), especially those set out in goals 3, 9, 12, 13, 14 and 15; stresses the need for transparent, liable and ambitious internal environmental policies and governance in companies, and the importance of a reinforced and highly skilled team monitoring and enforcing such environmental policies, with the main focus being on prevention measures;
10. Expresses its concern about the high incidence of environmental crime, as the combined estimates from the OECD, the UN Office on Drugs and Crime (UNODC), the UN Environment Programme (UNEP) and Interpol on the monetary value of all environmental crime show it to be the fourth largest category of international crime, with traffic and illegal waste management at the top of the list of environmental crimes; recognises the direct or indirect connection between environmental offences and transnational organised crime and corruption³, whereby such environmental offences, which generally take the form of 'corporate crimes', open the door wide to mafia infiltration into the legal economy; warns about the risk of further infiltration attempts by criminal organisations in view of the additional opportunities offered to businesses by EU funding for post-pandemic recovery; calls on Europol to update the study carried out in 2015⁴ and regularly provide updated data; points out that freezing and confiscation of the proceeds of crime, including environmental crimes, are crucial means for combating organised crime, and stresses the importance of using those proceeds also for social purposes aiming at repairing the damage done and improving the environment;
11. Calls on the Commission, Europol and Eurojust to provide further financial, human and technical support and a more effective and institutionalised structure for existing networks of practitioners, cross-border law enforcement, environmental agencies and

³ See the report for EFFACE 'Organised Crime and Environmental Crime: Analysis of International Legal Instruments' (2015), or the study 'Transnational environmental crime threatens sustainable development' (2019).

⁴ <https://www.europol.europa.eu/publications-documents/report-environmental-crime-in-europe>

specialised prosecutors such as the European Network of Prosecutors for the Environment (ENPE) and the European Union Forum of Judges for the Environment (EUFJE), with the participation of all EU Member States, including setting up networks where prosecutors and judges specialised in environmental crime can exchange experience and assist one another, with a view to improving the effectiveness of combating this type of crime; calls for reinforced action of Europol's EnviCrimeNet; calls on Europol and Eurojust to reinforce documentation, investigation and prosecution of environmental crimes; underlines the importance of investing in adequate funding and staffing levels for Europol and Eurojust;

12. Calls on Europol to set up a dedicated unit competent to collect, store, process, analyse and exchange information to support and strengthen Member States in preventing, detecting and investigating environmental crime;
13. Stresses the importance of (e-)training for law enforcement actors in environmental crime, and calls on CEPOL to intensify its training in this field; recognises that sufficient resources must be made available to CEPOL;
14. Calls on the Member States to encourage the use of Joint Investigation Teams and the exchange of information in transnational environmental crime cases, which facilitates the coordination of investigations and prosecutions conducted in parallel across several Member States;
15. Calls on the Commission to explore the possibility of extending the mandate of the EPPO, once it is fully established and fully functional, to cover environmental offences; recalls that the EPPO must be equipped with the necessary means to be able to thoroughly investigate and prosecute cross-border criminal activities;
16. Calls on the Commission and the Member States to set up protection and support schemes for the victims of environmental damage and to ensure their full access to justice, information and compensation; emphasises the key role of environmental NGOs in raising awareness and in identifying potential breaches of EU and national law, and calls on the Commission and the Member States to provide them with the appropriate financial support; reiterates the importance of enabling individuals or environmental NGOs to seek remedies and injunctive relief if public authorities fail to act to address environmental violations;
17. Emphasises the crucial role of environmental human rights defenders striving for rights and fundamental freedoms as they relate to the enjoyment of a safe, healthy and sustainable environment, and strongly condemns any form of violence, harassment and intimidation perpetrated against them; calls on the Member States to ensure proper and effective investigation and prosecution of such acts;
18. Stresses the importance of raising public and law enforcement awareness on the seriousness and increase of environmental crimes in the EU; calls on the Commission and the Member States to set up dedicated reporting points for environmental crime that would encourage and allow citizens to report, in an anonymous manner and without fear of retaliation, potential environmental offences to the appropriate authorities;
19. Calls for the creation of a centralised online repository for the collection of systematic,

reliable and up-to-date statistics on environmental crimes and illegal conduct that harms the environment; calls on the Commission to oblige Member States to provide all relevant statistics covering all reported environmental offences in a standardised form; calls on the Commission to publish a quantitative analysis of the data provided on environmental crimes, with a view to assessing the effectiveness of national systems and providing recommendations on how to adapt them in order to fight environmental crime more effectively, and helping cross-border law enforcement in detecting, investigating and prosecuting such crimes;

20. Is convinced of the need to take an international approach to environmental crime due to its global impact on societies; calls on the Commission to promote action by the EU, its Member States and the international community to step up efforts against environmental crime; calls on the Commission and the Member States to raise awareness and promote solutions in international forums, including on the protection of environmental human rights defenders; highlights, in this regard, the example of the International Consortium on Combating Wildlife Crime, which brings together five international organisations.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	7.12.2020
Result of final vote	+: 51 -: 6 0: 6
Members present for the final vote	Magdalena Adamowicz, Konstantinos Arvanitis, Malik Azmani, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Maria Grapini, Sylvie Guillaume, Balázs Hidvéghi, Evin Incir, Sophia in 't Veld, Patryk Jaki, Lívía Járóka, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Jadwiga Wiśniewska, Elena Yoncheva
Substitutes present for the final vote	Bartosz Arłukowicz, Philippe Olivier, Anne-Sophie Pelletier, Isabel Santos, Hilde Vautmans

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

51	+
EPP	Magdalena Adamowicz, Bartosz Arłukowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Balázs Hidvéghi, Livia Járóka, Jeroen Lenaers, Nuno Melo, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Isabel Santos, Birgit Sippel, Bettina Vollath, Elena Yoncheva
RENEW	Malik Azmani, Anna Júlia Donáth, Sophia In 'T Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Hilde Vautmans
ID	Peter Kofod
GREENS/EFA	Saskia Bricmont, Damien Carême, Alice Kuhnke, Terry Reintke, Diana Riba I Giner, Tineke Strik
EUL/NGL	Konstantinos Arvanitis, Pernando Barrena Arza, Cornelia Ernst, Anne-Sophie Pelletier
NI	Laura Ferrara, Martin Sonneborn

6	-
ID	Nicolas Bay, Marcel De Graaff, Nicolaus Fest, Philippe Olivier, Tom Vandendriessche
NI	Milan Uhrík

6	0
ID	Annalisa Tardino
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Nicola Procaccini, Jadwiga Wiśniewska

Key to symbols:

+ : in favour

- : against

0 : abstention