

Joint Committee on Environment and Climate Action 22nd February 2022

Scrutiny of EU legislative proposals on:

(1) Directive on the protection of the environment through criminal law COM(2021) 851

On 15 December the Commission published a legislative proposal to replace the existing 2008 Directive on the protection of the environment through criminal law. The Commission evaluated the 2008 Directive during 2019 and 2020 and published the results of the evaluation in October 2020.

The Commission found that the 2008 Directive had had little effect in practice. The number of environmental crime cases investigated, and prosecuted was still very low. Penalties were considered to be too lenient to discourage environmental crimes and there was too little cooperation between Member States in enforcing these laws. In addition, the Commission noted that very little information on investigations was being gathered.

The Commission proposes to address these issues by introducing a new, expanded and reinforced Directive on the protection of the environment through Criminal Law.

This new Directive will:

- clarify the definitions of existing offences;
- Define nine new environmental offenses:
 - placement on the market of products which ... cause substantial damage to the environment because of product's use on larger scale;
 - serious breaches of EU chemicals legislation causing substantial damage to the environment or human health;
 - illegal ship recycling;
 - illegal water abstraction;
 - source discharge of polluting substances from ships;
 - illegal trade in timber;

- serious breaches of rules on introduction and spread of invasive alien species with Union concern;
 - serious circumvention of requirements to do an environmental impact assessment; and,
 - illegal production, placing on the market, import, export, use, emission or release of fluorinated greenhouse gases.
- define sanction types and levels for environmental crimes;
 - improve cross-border cooperation;
 - ensure better data collection and sharing of statistics; and,
 - improve the effectiveness of national enforcement chains

Many of the issues raised by this proposal concern criminal law, and the DECC will have to work closely with the Department of Justice as this proposal is examined by the Council of Ministers. The Proposal will be considered by the COPEN formation of the Council, which brings together Justice officials from Member States. Other Departments will also be concerned with sector specific issues for Agriculture, water, industry and transport.

Implications for Ireland

Ireland views the next ten years to be critical if we are to address the climate and biodiversity crises which threaten our safe future on this planet. It is imperative that we protect our biodiversity and natural heritage against deliberate acts of systematic destruction of ecosystems, both nationally and globally.

Tackling Environmental Crime is a key commitment under the EU's Green Deal. This proposal includes robust measures that will:

- define sanction types and levels for environmental crimes;
- improve cross-border cooperation;

- ensure better data collection and sharing of statistics; and
- improve the effectiveness of national enforcement chains.