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PROPOSAL

from: European Commission
dated: 12 February 2007

Subject: Proposal for a Directive of the European Parliament and of the Council
on the protection of the environment through criminal law

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Javier SOLANA, Secretary-General/High Representative.

Encl.: COM(2007) 51 final



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the protection of the environment through criminal law

(presented by the Commission)

{SEC(2007) 160}

{SEC(2007) 161}

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In order to guarantee a high level of protection of the environment, an objective recognized by the EC Treaty (Article 174 §2 EC), the increasing problem of environmental crime must be tackled.

This proposal replaces the proposal for a Directive of the Parliament and the Council on the Protection of the Environment through Criminal Law (2001/0076(COD)) as amended after the first reading of the European Parliament, in order to implement the findings of the European Court of Justice in its judgment of 13 September 2005 (C-176/03, *Commission v Council*) which annulled the Framework Decision 2003/80/JHA on the protection of the environment through criminal law.

According to the judgment, the Community may take measures relating to the criminal law of the Member States which it considers necessary in order to ensure that the rules it lays down on environmental protection are fully effective.

The Community and the Member States have adopted numerous acts of legislation aiming at protecting the environment. However, various studies show¹ that the sanctions currently in place in the Member States are not always sufficient to effectively implement the Community's policy on environmental protection. Criminal sanctions are not in force in all Member States for all serious environmental offences, even though only criminal penalties will have a sufficiently dissuasive effect for several reasons:

First, the imposition of criminal sanctions demonstrates a social disapproval of a qualitatively different nature compared to administrative sanctions or a compensation mechanism under civil law.

Secondly, administrative or other financial sanctions may not be dissuasive in cases where the offenders are impecunious or, on the contrary, financially very strong. Prison penalties might be required in such cases.

Furthermore, the means of criminal investigation and prosecution (and of mutual legal assistance between Member States) are more powerful than tools of administrative or civil law and can enhance the effectiveness of those procedures.

Finally, there is an additional guarantee of impartiality because investigating authorities, i.e. other authorities, than those administrative authorities that have granted exploitation licences or authorisations to pollute will be involved in a criminal investigation.

Apart from the fact that the types of sanctions applicable differ from Member State to

¹ The most important studies can be found on the DG Environment's environmental crime website at <http://ec.europa.eu/environment/crime/index.htm#studies>.

Member State, there are also significant differences regarding the levels of sanctions that are applied to similar or identical offences. Environmental crime often has a transboundary nature or impacts. Offenders are therefore currently in a position to exploit the existing differences between Member States' legislation to their advantage. Therefore, the problem needs to be addressed through action at Community level.

- **General context**

In 1998 the Council of Europe adopted the Convention on the Protection of the Environment through Criminal Law.

The European Council held in Tampere in October 1999 asked for efforts to agree on common definitions, incriminations and sanctions for a limited number of particularly relevant crime sectors, including environmental crime.

In February 2000, the Kingdom of Denmark presented an initiative for a Framework Decision on combating serious environmental crime.

The Justice and Home Affairs Council agreed on 28 September 2000 that such an *acquis* on environmental offences should be established.

On 13 March 2001 the Commission adopted a proposal for a directive on the protection of the environment through criminal law. The purpose of the proposed directive was to ensure a more effective application of Community legislation on the protection of the environment by establishing throughout the Community a minimum set of offences.

The European Parliament adopted its report on the proposal in first reading on 8 April 2002.

On 30 September 2002 the Commission adopted an amended proposal including several of the amendments proposed by the European Parliament.

The Council did not discuss the Commission's proposal, but instead adopted on 27 January 2003, on the initiative of Denmark, the Framework Decision 2003/80/JHA on the protection of the environment through criminal law.

The European Court of Justice annulled this Framework Decision in its judgment of 13 September 2005 (C-176/03) for infringing Article 47 EU, holding that on account of both their aim and content, Articles 1-7 of that Framework Decision have as their main purpose the protection of the environment and could have been properly adopted on the basis of Article 175 EC.

On 30 November 2005 the Commission adopted a Communication outlining its views on the consequences of the judgment in case C-176/03, including the need to adopt a new legislative proposal on environmental crime.

In the light of the judgment it is necessary to withdraw the proposal of 2001 for a Directive on the Protection of the Environment through Criminal Law, and to present a new proposal making provision for the content of Articles 1 to 7 of the annulled Framework Decision. Certain offences will need to be modified, taking into account developments in the Community's environmental legislation. Furthermore, some additional elements considered necessary to ensure an effective protection of the environment have been included, notably the approximation of applicable sanctions for particularly serious environmental crimes.

As a follow-up to the ECJ case 176/03, the Commission intends to present, later in 2007, a proposal for a directive amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements.

- **Existing provisions in the area of the proposal**

Even though environmental legislation requires in various cases that Member States adopt dissuasive, effective and proportionate sanctions for breaches of environmental law, there are no provisions that require Member States to lay down specifically criminal sanctions for serious environmental offences.

- **Consistency with the other policies and objectives of the Union**

The proposed Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, it has been drafted in accordance with the principles on justice as set out in Chapter VI of the Charter and seeks to promote the integration into Community policies of a high level of environmental protection in accordance with the principle of sustainable development as laid down in Article 37 of the Charter.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The problem of environmental crime has been discussed in various international and European fora for many years.

The Commission organised a public conference on environmental crime in November 2003 and supported a workshop on the issue held by Royal Institute of International Affairs in London in 2002. Additional expert meetings on the specific crime of illegal trade in endangered species have been held in 2001 in Frankfurt and in 2004 in Budapest.

Further consultation of interested parties was not deemed necessary and feasible in this case. Since the annulment of Framework Decision 2003/80/JHA by the European Court of Justice on 13 September 2005 there has been a legal vacuum in the field of environmental crime that needed to be filled as quickly as possible.

- **Collection and use of expertise**

A number of workshops, conferences and expert meetings have been held on the subject in the last years which provided information and helped to shape this proposal.

- **Impact assessment**

Various options were considered in the impact assessment: the possibility of no action on EU level, the possibility to improve cooperation between the Member States through voluntary initiatives, the possibility of full harmonization of environmental criminal law and finally a limited approximation of the national legislation on environmental crime in the Member States.

The lack of action or non-binding action by the Community legislator would not

achieve any positive impact on the level of protection of the environment and would not tackle the existing difficulties in addressing environmental crime, difficulties which are rooted to a significant extent in the differences between the laws of the Member States.

Full harmonization of environmental criminal law would go beyond what is necessary and would ignore the fact that national criminal law is still strongly influenced by the respective cultural values of each Member State so that a certain flexibility in the implementation is required.

For a limited approximation, three different possible measures were considered: harmonization of a list of serious offences, harmonization of the scope of liability of legal persons, and approximation of the sanction levels for offences committed under aggravating circumstances. In all three cases, the possible impact on the level of protection of the environment as well as police and judicial cooperation have been assessed very positively, whereas the costs for business and the burden on public authorities would not be significant.

The Impact Assessment report is accessible on http://ec.europa.eu/governance/impact/index_en.htm.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposed directive establishes a minimum set of serious environmental offences that should be considered criminal throughout the Community when committed intentionally or with at least serious negligence. Participation in and instigation of such activities should equally be considered a criminal offence. The scope of liability of legal persons is defined in detail.

The offences should be punishable by effective, proportionate and dissuasive criminal sanctions for natural persons, whereas criminal or non-criminal sanctions shall be applied to legal persons.

For offences committed under certain aggravating circumstances, such as having caused a particularly serious result or the involvement of a criminal organization, the minimum level of maximum sanctions for natural and legal persons is subject to approximation, too.

- **Legal basis**

The provisions of this Directive relate to the protection of the environment. Consequently, the legal base chosen is Article 175(1) of the EC Treaty.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

Tougher sanctions in individual Member States would not tackle the problem effectively because perpetrators could easily circumvent those Member States and operate from places with a more lenient legislation.

Community action will better achieve the objectives of the proposal for the following reasons.

The proposal will provide for a minimum standard at Community level on constituent elements of serious environmental criminal offences, a similar scope of liability for legal persons as well as levels of penalties for particularly serious environmental crimes. This will ensure that serious cases of environmental crime are dealt with in a similar manner in all Member States and that perpetrators cannot take benefit from the existing differences in national legislation. It will also facilitate cooperation between Member States in cases with cross- border implications.

Community policy for the protection of the environment needs to be fully implemented throughout the Community. For this purpose sanctions need to be approximated.

Environmental crime usually has cross-border implications, as it often involves trans-boundary activities and often has trans-boundary effects such as the resulting pollution of the environment.

The proposed directive only sets a minimum level of harmonisation with regard to the activities that should be considered criminal offences and approximates the minimum levels of penalties that should apply in the most serious cases when the offence causes a particularly serious result or is committed under aggravating circumstances.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The action chosen is a directive, which leaves Member States a high degree of flexibility in the implementation. According to Article 176 EC, Member States are free to maintain or introduce more stringent measures than those foreseen in the directive. For instance, they may establish additional offences, extend the level of criminal culpability to simple negligence and/or add additional types and higher levels of penalties.

The implementation of the directive entails no significant financial and administrative burden as the criminal law and judicial structures already exist in Member States. Some additional burden for the Member States could result from a potential increase in prosecutions and criminal proceedings, but at the same time, the deterrent effect of higher sanctions should lead to a decrease of offences committed and thus reduce the number of criminal proceedings in the long run.

- **Choice of instruments**

Proposed instrument: Directive.

Other means would not be adequate for the following reasons:

A directive is the appropriate instrument for this action: it sets a binding minimum standard for environmental protection through criminal law but leaves flexibility to the Member States when implementing the directive into national criminal legislation.

4) **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

5) **ADDITIONAL INFORMATION**

- **Correlation table**

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

- **Detailed explanation of the proposal**

1. Definition of offences

The definition of offences corresponds largely to the definitions set out in the Framework Decision 2003/80/JHA while taking into consideration some amendments of the European Parliament made to the original directive proposal and accepted by the Commission after the first reading.

The majority of the offences are made conditional on the activities' result, i.e. that they cause or are likely to cause serious harm to persons or the environment.

All offences but one require their "unlawful" commission, "unlawful" being defined as infringing Community or Member States legislation, administrative regulations or decisions by a competent authority aiming at the protection of the environment. In the only autonomous offence, Article 3 (a), the result, i.e. death or serious injury of a person, is so serious that this requirement of unlawfulness is not needed in order to justify criminalization.

In contrast to the Framework Decision, the offences refer to "material" instead of "substance" (Article 3 (a) and (b)) as this is a more comprehensive term. Accordingly, the Commission had already rejected an amendment of the European Parliament for the original Directive proposal.

In correspondence with the original proposal, an additional offence regarding the

unlawful significant deterioration of a protected habitat has been added. Furthermore, a special offence regarding illegal shipments of waste has been included, taking into account new Community legislation. Illegal shipments of waste should be considered as criminal offences only in the serious cases, i.e. when they are carried out in a non-negligible quantity and for profit.

Several offences contain relatively vague terms such as "substantial damage" or "serious injury". Those terms are not defined and their appraisal is left to each Member State to interpret in the light of its traditions and legal system.

The conduct described is to be considered a criminal offence when committed intentionally or with at least serious negligence, including the commission as participator or instigator.

2. Liability of legal persons

As stated in the Framework Decision, Member States should ensure that legal persons can be held liable for the offences committed for their benefit by certain persons acting on their behalf or when the lack of supervision or control enabled those persons to act.

It is not specified whether the liability of legal persons should be a criminal one. Thus, Member States that do not recognise the criminal liability of legal persons in their national law are not obliged to change their national system.

3. Sanctions

Sanctions applied against environmental offences must be effective, proportionate and dissuasive, both for natural and legal persons.

In addition to this requirement, the current significant differences in sanctions in the national legislation of the Member States make it necessary to foresee, at least for particularly serious cases, an approximation of the levels of penalties corresponding to the seriousness of the offence. Without such approximation, perpetrators could exploit loopholes in the national legislation of Member States.

The aggravating circumstances for which an approximation of penalties is foreseen are the particularly serious result of an offence, such as death or serious injury to a person or substantial damage to the environment, or the commission of the offence in the framework of a criminal organisation. Those circumstances are generally already considered particularly serious in the national criminal laws of Member States and have already been provided for by other EU instruments.

Regarding imprisonment, the proposed approximation on a three-step scale corresponds to the conclusions of the Justice and Home Affairs Council of 25-26 April 2002. The scales depend on the mental element (serious negligence or intent) and the respective aggravating circumstance. The system of fines for legal persons follows as well a three-step approach corresponding to the one developed by the Justice and Home Affairs Council for prison sentences. The range of amounts for fines for legal persons is similar to the one agreed on by the Council in the Framework Decision 2005/667/JHA on ship-source pollution.

Alternative sanctions are suggested for both natural and legal persons. Such sanctions may be more effective than imprisonment or fines in many cases and include the obligation to reinstate the environment, the placing under judicial supervision, the ban on engaging in commercial activities or the publication of judicial decisions.

Even though in many cases confiscation of crime-related objects will be an essential tool, the inclusion of a specific provision has not been considered necessary, as most of the serious environmental offences will be covered by the scope of Framework Decision 2005/212/JHA on Confiscation of Crime-Related Proceeds, Instrumentalities and Property.

4. Implementation Period

The implementation period for Member States is [18] months, taking into account that notably Articles 3, 4, and 6 make largely provision for the content of Articles 2 to 6 of the annulled Framework Decision 2003/80/JHA. The implementation period for this Framework Decision ended on 27 January 2005 so that Member States will already have done a significant part of the required implementation work for this Directive.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the protection of the environment through criminal law

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁵,

Whereas:

- (1) According to Article 174(2) of the Treaty, Community policy on the environment must aim at a high level of protection.
- (2) The Community is concerned at the rise in environmental offences and their effects, which are increasingly extending beyond the borders of the States in which the offences are committed. Such offences pose a threat to the environment and therefore call for an appropriate response.
- (3) Experience has shown that the existing systems of sanctions have not been sufficient to achieve complete compliance with laws for the protection of the environment. Such compliance can and should be strengthened by the application of criminal sanctions, which demonstrate a social disapproval of a qualitatively different nature compared to administrative sanctions or a compensation mechanism under civil law.
- (4) Common rules on criminal sanctions make it possible to use more effective methods of investigation and assistance within and between Member States than are available under administrative co-operation.

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

- (5) By entrusting judicial authorities, rather than administrative authorities, with the task of imposing sanctions, responsibility for investigating and enforcing the respect of environmental regulations falls to authorities which are independent of those which grant exploitation licences and discharge authorisations.
- (6) In order to achieve effective protection of the environment, there is a particular need for more dissuasive sanctions for environmentally harmful activities, which typically cause or are likely to cause substantial damage to the air, including the stratosphere, soil, water, animals or plants, including to the conservation of species.
- (7) Failure to comply with a legal duty to act can have the same effect as active behaviour and should therefore be subject to corresponding sanctions, as well.
- (8) Therefore, such conduct should be considered a criminal offence throughout the Community when committed intentionally or with serious negligence.
- (9) In order to achieve effective protection of the environment, participation in and instigation of such activities should also be considered a criminal offence.
- (10) Environmentally harmful activities should be punishable by effective, proportionate and dissuasive criminal sanctions, which should also apply to legal persons throughout the Community, because environmental offences are committed, to a large extent, in the interest of legal persons or for their benefit.
- (11) Furthermore, the significant differences in the level of sanctions in the Member States make it necessary to foresee, under certain circumstances, an approximation of those levels corresponding to the seriousness of the offence.
- (12) Such an approximation is particularly important where the offences have serious results or the offences are committed in the framework of criminal organisations which play a significant role in environmental crime.
- (13) As this Directive provides for minimum rules, Member States are free to adopt or maintain more stringent provisions regarding the effective criminal law protection of the environment.
- (14) Member States should provide information to the Commission on the implementation of this Directive, in order to enable it to evaluate the effect of this Directive.
- (15) Since the objectives of the action to be taken, namely to ensure a more effective protection of the environment, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (16) This act respects fundamental rights and principles as recognised notably in the Charter of fundamental rights of the European Union.

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Subject matter

This Directive establishes measures relating to criminal law in order to protect the environment more effectively.

Article 2
Definitions

For the purpose of this Directive

- (a) "unlawful" means infringing Community legislation or a law, an administrative regulation or a decision taken by a competent authority in a Member State aiming at the protection of the environment.
- (b) "legal person" means any legal entity having such status under the applicable national law, except for States or other public bodies acting in the exercise of their sovereign rights and for public international organisations.

Article 3
Offences

Member States shall ensure that the following conduct constitutes a criminal offence, when committed intentionally or with at least serious negligence:

- (a) the discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes death or serious injury to any person;
- (b) the unlawful discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, 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;
- (c) the unlawful treatment, including disposal and 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;
- (d) the unlawful operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used 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;
- (e) the illegal shipment of waste as defined in Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and Council⁶ for profit and in a non-

⁶ OJ L 190, 12.7.2006, p. 1.

negligible quantity, whether the shipment is executed in a single operation or in several operations which appear to be linked;

- (f) 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;
- (g) the unlawful possession, taking, damaging, killing or trading of or in specimens of protected wild fauna and flora species or parts or derivatives thereof;
- (h) the unlawful significant deterioration of a protected habitat;
- (i) the unlawful trade in or use of ozone-depleting substances.

Article 4
Participation and instigation

Member States shall ensure that participation in or instigation of the conduct referred to in Article 3 constitutes a criminal offence.

Article 5
Sanctions

1. Member States shall ensure that the commission of the offences referred to in Articles 3 and 4 is punishable by effective, proportionate and dissuasive criminal sanctions.
2. Member States shall ensure that the commission of the offences referred to in Article 3 (b) to (h) is punishable by a maximum of at least between one and three years imprisonment where the offence is committed with serious negligence and causes substantial damage to air, soil, water, animals or plants.
3. Member States shall ensure that the commission of the following offences is punishable by a maximum of at least between two and five years imprisonment:
 - (a) the offence referred to in Article 3(a), where the offence is committed with serious negligence;
 - (b) the offences referred to in Article 3 (b) to (f), where the offence is committed with serious negligence and causes the death of or serious injury to a person;
 - (c) the offences referred to in Article 3 (b) to (h) where the offence is committed intentionally and causes substantial damage to air, soil, water, animals or plants;

- (d) the offences referred to in Article 3, where the offence is committed in the framework of a criminal organisation within the meaning of Framework Decision [... on the fight against organised crime]⁷.
4. Member States shall ensure that the commission of the following offences is punishable by a maximum of at least between five and ten years imprisonment:
- (a) the offence referred to in Article 3 (a), where the offence is committed intentionally;
 - (b) the offences referred to in Article 3 (b) to (f) where the offence is committed intentionally and causes the death of or serious injury to a person.
5. The criminal sanctions provided for in this article may be accompanied by other sanctions or measures, in particular:
- (a) the disqualification of a natural person from engaging in an activity requiring official authorization or approval, or founding, managing or directing a company or a foundation, where the facts having led to his conviction show a high risk that the same kind of criminal activity may be pursued again;
 - (b) the publication of the judicial decision relating to the conviction or any sanctions or measures applied;
 - (c) the obligation to reinstate the environment.

Article 6
Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for offences referred to in Article 3 where such offences have been committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on
- (a) a power of representation of the legal person, or
 - (b) an authority to take decisions on behalf of the legal person, or
 - (c) an authority to exercise control within the legal person.
- Member States shall also ensure that legal persons can be held liable for their involvement as accessories or instigators in the commission of the offences referred to in Article 3.
2. Member States shall also ensure that a legal person can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of an offence referred to in Article 3 for the benefit of that legal person by a person under its authority.

⁷ OJ L , , p. .

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in the offences referred to in Article 3.

Article 7
Sanctions for legal persons

1. Member States shall ensure that a legal person held liable for an offence pursuant to Article 6 is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines.
2. The fines provided for in paragraph 1 shall be:
 - (a) of a maximum of at least between EUR 300 000 and EUR 500 000 in cases where an offence referred to in Article 3 (b) to (h) is committed with serious negligence and causes substantial damage to air, soil, water, animals or plants.
 - (b) of a maximum of at least between EUR 500 000 and EUR 750 000 in cases where:
 - i) the offence referred to in Article 3 (a) is committed with serious negligence, or
 - (ii) an offence referred to in Article 3 (b) to (h):
 - is committed with serious negligence and causes the death or serious injury of a person, or
 - is committed intentionally and causes substantial damage to air, soil or water or to animal or plants, or
 - (iii) an offence referred to in Article 3 is committed intentionally in the framework of a criminal organisation within the meaning of Framework Decision [... on the fight against organised crime];
 - (c) of a maximum of at least between EUR 750 000 and EUR 1 500 000 in cases where:
 - (i) an offence referred to in Article 3 (a) is committed intentionally, or
 - (ii) an offence referred to in Article 3 (b) to (f) is committed intentionally and causes the death or serious injury of a person.

Member States may apply a system whereby the fine is proportionate to the turnover of the legal person, to the financial advantage achieved or envisaged by the commission of the offence, or to any other value indicating the financial situation of the legal person, provided that such system allows for maximum fines, which are at least equivalent to the minimum for the maximum fines. Member States that implement the Directive in accordance with such a system shall notify the Commission that they intend to do so.

3. Member States in which the Euro has not been adopted shall apply the exchange rate between the Euro and their currency as published in the *Official Journal of the European Union* on [...].
4. The sanctions provided for in this article may be accompanied by other sanctions or measures, in particular:
 - (a) the obligation to reinstate the environment;
 - (b) the exclusion from entitlement to public benefits or aid;
 - (c) the temporary or permanent disqualification from the practice of industrial or commercial activities;
 - (d) the placing under judicial supervision;
 - (e) a judicial winding-up order;
 - (f) the obligation to adopt specific measures in order to eliminate the consequences of conduct such as that on which the criminal liability was founded;
 - (g) the publication of the judicial decision relating to the conviction or any sanctions or measures applied.

Article 8
Reporting

By ... at the latest, and every three years thereafter, Member States shall transmit information to the Commission on the implementation of this Directive in the form of a report.

On the basis of those reports, the Commission shall submit a report to the European Parliament and the Council.

Article 9
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 10
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 11
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President