

Statement of the European Commission on access to justice to challenge violations of laws regarding the environment with the occasion of the 28th meeting of the Working Group of the Parties to the Aarhus Convention (Geneva, 2-4 July 2024)

Environmental crime is a growing concern causing **significant damage to the environment and to human health** without borders. Because of **high profits and relatively low risks of detection**, organised crime groups are increasingly attracted to environmental crime activities.

To tackle these challenges successfully, in December 2021 the Commission adopted a **proposal for a new Directive on Environmental Crime** replacing Directive 2008/99/EC. The 2008 Directive was found to be ineffective with an outdated list of offences, not clearly specified nor dissuasive sanctions and ineffective enforcement provisions. Following the proposal, and after legislative negotiations in the EU with the Council and the European Parliament, the formal adoption took place on 11 April 2024 and now the Directive entered into force on 20 May 2024.

The new ECD includes a **comprehensive list of conducts to be established as criminal offences** in the national legal order of the Member States, a graduated system of **minimum to maximum penalties** for natural and legal persons, and a set of provisions which will help considerably improve the effectiveness of all actors along the **enforcement chain** to combat environmental crime.

Moreover, the new Directive **recognises the role of civil society** by ensuring support and assistance to persons reporting criminal offences or otherwise cooperating with competent authorities (the so-called ‘**environmental defenders**’) and by **ensuring procedural rights in proceedings** where possible under the national framework in EU member States. The latter provision concerns persons affected or likely to be affected by environmental crime and persons having a sufficient interest or maintaining the impairment of a right, as well as NGOs that promote environmental protection and meet requirements under national law.

In addition, those provisions are now reflected in the text for **the new Council of Europe Convention on the Protection of Environment through Criminal Law**, which was agreed by experts on 7 June 2024 at technical level.

In conclusion, since nature cannot represent itself as a victim in criminal proceedings, the abovementioned provisions in both the new ECD and the new draft Council of Europe Convention allow members of the public concerned to have the possibility to act on behalf of the environment, within the scope of the Member States’ legal framework and subject to the relevant procedural rules.