

Compliance with the EU Environmental Crime Directive in the Countries of Southeast Europe and Moldova



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Executive Summary

Directive 2008/99/EC on the protection of the environment through criminal law is an essential piece of EU legislation in presenting a unified approach to environmental protection across the European Union. The Directive compels EU Member States to provide criminal penalties for a minimum set of offenses against the environment in an effort to increase compliance with EU environmental law.

This report details the harmonization of national criminal law with the Environmental Crime Directive in the states of Albania, Bosnia and Herzegovina, Kosovo, the Former Yugoslav Republic of Macedonia, Moldova, Montenegro, and Serbia in their capacity as EU candidates, potential candidates and associated countries.

Summary of Conclusions

- All states in Southeastern Europe have introduced crimes against the environment into their criminal codes.
- Harmonization of national penal codes with the crimes included in the Environmental Crime Directive varies significantly by state, with some states achieving essentially full compliance and others including only basic pollution crimes. Many crimes are “partially harmonized”, criminalizing only certain aspects of the offenses listed in the Directive.
- Sanctions imposed for environmental crimes, particularly with regard to the size of fines imposed, vary significantly from state to state.
- All states provide for both accomplice liability and liability of legal persons, as required by the Directive.
- Enforcement capacity remains a major issue throughout the region, due largely to weaknesses in monitoring, resource limitations, and the lack of progress in implementing the EU environmental standards that the Environmental Crime Directive seeks to strengthen.

What is the Environmental Crime Directive?

Directive 2008/99/EC on the protection of the environment through criminal law – more commonly known as the Environmental Crime Directive – is an EU directive aimed at increasing compliance with EU environmental law.

The Directive requires EU Member States to establish criminal offenses for certain violations of EU environmental law. Article 3 of the Directive lists 9 general types of acts against the environment that must be criminalized by Member States. Summarized, these acts are as follows²:

- 1) Illegal discharge of harmful substances or radiation into air, soil, or water;
- 2) Collection, transport, recovery or disposal of waste in an unlawful manner;
- 3) Shipping waste in an unlawful manner;
- 4) Operation of an industrial installation in which dangerous substances are stored or used in a way that causes or threatens environmental harm;
- 5) Management or handling of nuclear materials or other hazardous radioactive substances in an unlawful manner;
- 6) Illegally killing or transporting protected plants, animals, or specimens thereof;
- 7) Illegally trading in specimens of protected plants and animals;
- 8) Causing habitat deterioration on protected lands; and
- 9) Production, trade, or use of ozone-depleting substances.

In accordance with Article 2 of the Directive, the above acts are made unlawful when they are committed with at least serious negligence and violate legislation adopted pursuant to the EC Treaty (now the TFEU), the Euratom Treaty or any law or regulation of the Member State passed to implement EU environmental law. A full list of relevant EU legislation is provided in Annexes A and B to the Directive and reproduced in Annex B of this report.

Article 6 of the Directive requires Member States to ensure that “legal persons” may also be held criminally liable for the above-listed acts. “Legal persons”, for the purposes of the Directive, means any legal entity, with the exception of States, those exercising state authority and public international organizations.

Why Criminal Law?

The EU environmental *acquis* make up a major portion of European Union law, consisting of some 300 legislative acts. The introduction of criminal punishment is intended to increase compliance with environmental law across Europe by making the penalties for violations more severe and more standardized across Member States. Harmonizing criminal offenses across Member States ensures that actors are equally deterred from committing crimes in each country that has transposed the Directive.

The Role of National Law

Criminal law is traditionally an area of competence reserved to Member States. The Directive does not itself create criminal law, but requires governments to attach criminal penalties to environmental offenses under their own national laws. The criminal penalties to be imposed are also left to Member States, with the Directive providing that sanctions for both legal and natural persons be “effective, proportionate and dissuasive”. Additionally, while the Directive requires at least “serious negligence” for criminal culpability, the definition of mental states is left to national law.

This report, therefore, does not address issues reserved purely for national law, such as the determination of *mens rea*. Further, because the guidance of the Directive on sanctions for Article 3 crimes is vague and

² For the full descriptions of Article 3 offenses, please see Annex A to this report.

largely left for national determination, this report does not provide an assessment of whether the prescribed penalties are “effective, proportionate and dissuasive.” Criminal penalties are described for each crime covered by the Directive, with occasional reference to the severity of sanctions with reference to other countries in the region.

It should also be noted that the Environmental Crime Directive also acts as a floor, not a ceiling. Member States may implement additional crimes or more stringent measures in enforcing environmental law.

History of the Directive

Although the Environmental Crime Directive was only formally adopted in October 2008, the effort to use criminal law in support of EU environmental legislation is over a decade old.

In January 2003, the Council of European Union introduced a framework decision listing a number of offenses against the environment that Member States would be required to criminalize. The framework decision touched off a dispute over the competency of the European Union in the field of criminal law. The Council’s framework decision was based on what was then Title VI of the Treaty on the European Union (TEU) providing for police and judicial cooperation in criminal matters. The use of a Title VI instrument limited the effect of the effort to create a harmonized system of environmental crimes, as framework directives do not have direct effect and the Commission would be unable to force recalcitrant Member States to transpose the decision through infringement proceedings.

The Commission, supported by the EU Parliament, initiated a challenge to the framework decision in the European Court of Justice. In *Commission v. Council (C-176/03)*, the ECJ held that the Community was competent to require Member States to impose criminal penalties for acts against the environment under ex-Article 175 TEC (now 192 TFEU). Because this power was reserved to the Community, the Council was not competent to pass a Title VI instrument to the same effect. The ECJ struck down the framework decision, paving the way for today’s Environmental Crime Directive.

The full ratification of the Treaty of Lisbon in 2009 embodied the decision reached in C-173/03 within the TFEU. Article 83(2) TFEU now states that directives may be used to define criminal offenses if the approximation of criminal laws “proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures.”

The history of the Directive underlines the importance of a harmonized approach to environmental protection across the European continent. With environmental crime frequently taking on a transnational nature, the ability of the European Union to effectively enforce its environmental legislation rests on its ability to ensure that certain environmentally damaging behavior is criminalized in every Member State.

Implementing the Directive

Implementing Directive 2008/99/EC requires states to undertake two primary tasks: First, the state must introduce the offenses listed in Article 3 of the Directive into its criminal code. And second, the state must ensure that the criminal sanctions attached to these offenses are “effective, proportionate, and dissuasive.”

Two additional considerations come into play in evaluating compliance with the Directive.

First, the Directive provides that criminal liability must attach to a range of different actors. In accordance with Article 6 of the Directive, states must ensure that criminal liability attaches to both natural persons and legal persons. Further, Article 4 provides that not only principal actors, but also those who incite, aid or abet the violations contained in Article 3 should be held criminally liable.

Second, many states have introduced environmental crimes into their criminal codes but do not have the capacity to enforce them. Commentators on the Environmental Crime Directive have [noted](#) that failure of a Member State to successfully prosecute these crimes could be interpreted as infringement of EU law. This principle was set out in the *Spanish Strawberries Case (C-265/95)*, where the ECJ held, “Apprehension of

internal difficulties cannot justify a failure by a Member State to apply Community law correctly. ... It is for the Member State concerned ... to adopt all appropriate measures to guarantee the full scope and effect of Community law so as to ensure its proper implementation[.]”

Full compliance with the Directive can therefore be expressed as compliance with four factors:

- 1) Are all Article 3 offenses incorporated into the criminal code?
- 2) Are criminal sanctions for these offenses “effective, proportionate and dissuasive”?
- 3) Do states attach the full range of liability foreseen by Article 4 and 6 of the Directive?
- 4) Does the state have the capacity and willingness to prosecute?

Current Status in Southeastern Europe

Compliance with EU environmental policy is an essential and challenging step of the accession process for EU candidates and accession countries. The countries of Southeastern Europe have made varying degrees of progress in transposing the Environmental Crimes Directive.

Albania

Having just received Candidate status in 2014, Albania has not yet opened negotiations on any chapter of the *acquis*. The [National Plan for Integration](#), published in March 2015, does provide a plan for transposing a number of EU environmental *acquis*, but the Environmental Crime Directive is not mentioned.

Albania’s 2014 [EU Progress Report](#) notes that “further work is needed on aligning the horizontal legislation, in particular with the Directive[] on ... Environmental Crime.”

Are all Article 3 offenses incorporated into the Criminal Code?

While more progress is needed, environmental crime legislation is beginning to come under discussion in Albania. The Ministry of Environment held a [conference](#) dedicated to environmental crimes in 2014, which was portrayed as the first step in drawing attention to the need to align the Albanian Criminal Code with the Environmental Crime Directive. The SELEA project also published a Draft Working Paper on Environmental Criminal Law that provided an initial estimation of Albania’s compliance with the Directive.

The Albanian [Criminal Code](#) does contain a chapter on criminal acts against the environment, but harmonization with the Environmental Crime Directive is minimal. The articles of the Code that are at least partially harmonized with the Directive include:

Article of Criminal Code	Article 3 Offense
201: Pollution of air 203: Pollution of water	3(a)*
202: Importing toxic and radioactive waste into Albania	3(b)/(c)**

* The Albanian Code does not cover pollution of soil, as required by Directive Art. 3(a)

** Article 202 of the Criminal Code relates partly to Directive Arts. 3(b) and (c), but fails to introduce liability for the majority of actions foreseen by the Directive, including improper collection, transport, recovery, disposal, and export of waste, as well as management of waste collection sites.

Additional crimes against the environment currently included in the Criminal Code are illegal fishing, illegal logging, illegal cutting of decorative trees, setting of forest fires and breach of animal or plant quarantine, none of which directly correspond to the Environmental Crime Directive.

Are criminal sanctions for these offenses “effective, proportionate and dissuasive?”

Articles 201 and 203 of the Albanian Criminal Code, criminalizing pollution of air and water, respectively, present the potential for significant prison sentences. Air pollution is punishable by a fine or by up to 2 years in prison. Water pollution is punished by up to 5 years in prison. Both offenses receive escalated sanctions

when they result in serious consequences to life and health. In these cases, air pollution is punishable by up to 10 years in prison and water pollution by 5 to 15 years.

Importing toxic and radioactive waste, as prescribed by Article 202, is punishable by 1 to 5 years imprisonment. When such an offense results in serious harm to life and health, punishment escalates to 5 to 15 years.

Does the national criminal law include liability for legal persons and for accomplices?

Article 4 Liability

Chapter IV of the Albanian Criminal Code provides generally for accomplice liability. Criminal liability attaches to any collaborator who agrees to commit a criminal act and then acts as an “executor”, “instigator” or “helper” in the commission of the act.

The articles in Chapter IV do not, however, provided sentencing guidelines for persons convicted of acting as collaborators. This lack of guidance potentially undermines the effectiveness of Article 4 of the Directive.

Article 6 Liability

Criminal liability of legal persons is provided for by Article 45 of the Criminal Code. The sanctions that may be applied to legal entities are regulated by a separate law, [“On the Criminal Liability of Juridical Persons”](#) (2007).

Articles 9 and 10 of this law provide the possible sanctions that may be imposed on legal entities. The principle sanctions are fine or liquidation of the entity. Additional punishments include operating restrictions, public funds restrictions, and revocation of licenses.

Fines are set in relation to the severity of the prison sentence envisioned by the Criminal Code. Crimes punished by less than 7 years imprisonment have corresponding fines of ALL 500,000 to 5 million (EUR 3,500-35,000). Crimes punishable by 7-15 years imprisonment (the maximum for environmental crimes) are have a corresponding fine of ALL 5 to 25 million (EUR 35,000-180,000).

Does the state have the capacity and willingness to prosecute?

Significant progress remains to be made on environmental protection through criminal law in Albania. This need was noted in Albania’s [2014 EU Progress Report](#), which states generally a need for more effective prosecutorial system for environmental crimes.

The 2013 crime report of the Albanian Public Prosecutor’s office states that environmental crimes composed 0.9% of all crimes prosecuted in 2013, down from 1.4% in 2012. The total number of environmental crimes registered in 2013 was 255, resulting in 93 prosecutions and 34 convictions. The vast majority of reported crimes (191) and convictions (22) were for unlawfully cutting or damaging trees.

As for crimes partially harmonized with the Directive, there were 12 reports of air pollution, resulting in 0 convictions; 2 reports of water pollution, resulting in 2 convictions; and no reports of illegal importation of toxic waste.

Bosnia and Herzegovina

Environmental law in Bosnia and Herzegovina is almost entirely controlled by entity-level government and the government of the Brčko District. As such, the progress in harmonizing its criminal code with the Environmental Crime Directive has been uneven. The National Criminal Code of Bosnia Herzegovina does not contain a chapter on crimes against the environment.

Bosnia and Herzegovina has made little progress in transposing horizontal legislation in the field of environment since 2012, as the country’s general progress in its accession process slowed in 2013-2014.

The EU Stabilisation and Association Agreement with Bosnia and Herzegovina came into force only recently, on 1 June 2015.

Are all Article 3 offenses incorporated into the Criminal Code?

Respublika Srpska

As of 2012, the [Criminal Code of Respublika Srpska](#) was partially harmonized with the Environmental Crime Directive. Articles 415-437 of the Criminal Code contain an array of environmental offenses – some of which are in line with the Directive, and some of which introduce additional offenses. Harmonized articles include:

Article of Criminal Code	Article 3 Offense
415: pollution of air, soil, or water	3(a)
416: pollution by waste (recycling, dumping, depositing, collecting, storing or transporting)	3(b)/(c)*
418: construction, operation or use of facilities or equipment that pollute the environment	3(d)
433(2): Causing a large number of deaths of a protected species 436(4): hunting game, the hunting of which is forbidden	3(f)**
434: exporting protected plants or animals	3(g)***

* Illegal shipment of waste under Directive Article 3(c) is defined by Regulation (EC) No 1013/2006 Art. 2(35)

** Article 3(f) requires criminalizing any killing or destruction of either protect plants or animals

***Article 3(g) of the Directive concerns trading in protected species and specimens more generally.

In addition to the gaps noted above, the Criminal Code of Respublika Srpska lacks provisions that bar the production and management of nuclear waste (Dir. Art. 3(e)), the degradation of habitats within protected sites (Dir. Art. 3(h)), and the sale of ozone-depleting substances (Dir. Art. 3(i)).

Additional offenses included in the Respublika Srpska Code include a variety of offenses against livestock and other unprotected animal species and the offenses of forest theft or destruction.

Federation of Bosnia and Herzegovina

The [Criminal Code of FBiH](#) contains crimes against the environment, but has not been harmonized to Directive 2008/99/EC. The following articles of the criminal code meet the minimum requirements of the Environmental Crime Directive:

Article of Criminal Code	Article 3 Offense
303: pollution of air, soil, water, the sea, sea floor or underground	3(a)
305: pollution by waste (dumping, depositing, collecting, storing, recycling or transporting)	3(b)/c*

* Illegal shipment of waste under Directive Article 3(c) is defined by Regulation (EC) No 1013/2006 Art. 2(35)

Other crimes against the environment in FBiH are not included in the Directive. They include forest theft and destruction and a number of crimes against livestock and animals.

Brčko District

Chapter 26 of the [Criminal Code of the Brčko District](#) addresses criminal offenses against the environment, agriculture, and natural resources and is identical to the environmental crimes section of the Criminal Code of FBiH.

Are criminal sanctions for these offenses “effective, proportionate and dissuasive?”

Respublika Srpska

The Criminal Code of Republika Srpska provides that environmental crimes may be punished by either fine or imprisonment. Most crimes call for a fine or reduced prison sentence when the offense is committed through negligence. The criminal code assigns longer prison sentence guidelines to crimes that threaten the health of humans and animals.

Pollution of the environment is punishable by a fine or maximum prison sentence of 2 years. When the damage threatens human and animal health, the sentence guidelines are 1 to 5 years.

Pollution by waste is punishable by a fine or maximum prison sentence of 2 years. When damage threatens health, the sentence is from 6 months to 3 years.

Illegal operation of facilities presenting environmental risk is punished with a fine or 3 months to 3 years imprisonment.

Damage to protected natural objects is punished by a fine and not more than 3 years imprisonment, unless objects are of particularly high value, in which case the maximum sentence is 8 years.

Exporting protected plants and animals is punishable by fine or not more than 3 years imprisonment.

Federation of Bosnia and Herzegovina/Brčko District

Environmental crimes in these jurisdictions are generally punishable by fine or imprisonment. Escalated sentencing guidelines are provided for crimes that cause severe bodily injury or property damage, and further escalation is available for crimes resulting in death. Fines or reduced sentences are imposed when crimes are committed through negligence.

Pollution of the environment is punishable by imprisonment from 3 months to 5 years. The sentencing guidelines escalate to 1 to 12 years in cases where the crime is committed with a greater mental culpability than negligence and results in one or more deaths.

Pollution by waste is punishable by a fine or imprisonment for a maximum of 3 years. When the crime is committed through negligence the maximum prison sentence is set at 3 months.

Does the national criminal law include liability for legal persons and for accomplices?

Republika Srpska

Article 4

Articles 24 and 25 of the Criminal Code provide for liability for inciters, and accessories. All accomplice liability is expressly limited by the intent of the accomplice. Inciters are given the same sanction as principals to the offense and accessories may be given reduced sentences.

Article 6

Article 134 of the Criminal Code provides that legal entities may be criminally sanctioned by fine, forfeiture of property, or dissolution. The amount of the fine is imposed by statute and must be between 5,000 KM (EUR 2,500) and 5,000,000 KM (EUR 2,500,000).

Federation of Bosnia and Herzegovina/Brčko District

Article 4

Article 32 of the Criminal Codes of FBiH and Brčko District impose criminal liability for incitement. Article 33 imposes accessory liability. All accomplice liability is expressly limited by the intent of the accomplice. Inciters are given the same sanction as principals to the offense and accessories may be given reduced sentences.

Article 6

Article 135 of the Criminal Codes of FBiH and Brčko District state that legal entities may be criminally sanctioned by fine, forfeiture of property, or dissolution. The amount of the fine is imposed by statute and must be between 5,000 KM (EUR 2,500) and 5,000,000 KM (EUR 2,500,000).

Does the state have the capacity and willingness to prosecute?

While the crimes contained in the Environmental Crime Directive are, to some degree, reflected in all the criminal codes of Bosnia and Herzegovina, as of 2012, prosecution of these crimes was essentially non-existent. A [2012 report on the country's courts](#) indicated that only 0.2% of indictments for criminal offenses against the environment reflected crimes that might correspond to the offenses listed in Article 3 of Directive 2008/99/EC. From 2007-2011 the courts [heard over 3,500 criminal cases](#) related to the environment, 97% of which were for the crime of forest theft.

Kosovo

According to Kosovo's [2011 EU Progress Report](#), Directive 2008/99/EC has been "partially transposed" into national law. The [Criminal Code](#) adopted in 2012 expanded on the environmental crimes that had previously existed under Chapter XXIV of the [2003 Provisional Criminal Code](#).

Are all Article 3 offenses incorporated into the Criminal Code?

The 2012 Code introduced liability for a number of new criminal offenses against the environment, including offenses for applying technologies that cause large-scale pollution and selling or exporting protected specimens. The new Code also stiffened the minimum penalties for several crimes, including pollution and waste pollution. The current articles that are at least partially harmonized to Directive 2008/99/EC are:

Article of Criminal Code	Article 3 Offense
347: pollution of air, water, soil; over-exploitation of natural resources	3(a)
348: unlawful management of hazardous waste (handling, storing, transporting, exporting or importing)	3(b)/(c)*
349: construction or operation of facilities that pollute environment	3(d)
176: appropriation, use, disposal or transfer of nuclear materials	3(e)
359: unlawful hunting;	3(f)**
361: sale or removal of protected plants or animals	3(g)***

* Illegal shipment of waste under Directive Article 3(c) is defined by Regulation (EC) No 1013/2006 Art. 2(35)

** Article 359, which only covers hunting of protected animals, is significantly narrower than Directive Article 3(f), which covers killing, destruction, possession, or taking of any protected plant or animal species or specimen thereof.

*** Article 3(g) of the Directive covers all trade in protected specimens, not just export trade.

In addition to the gaps in the notes above, the Criminal Code of the Republic of Kosovo lacks offenses harmonized to Directive 3(h) for degradation of habitats within protected sites and 3(i) for ozone-depleting substances.

Additional environmental offenses in Kosovo not covered by the Directive include damaging installations for environmental protection, a range of veterinary offenses, forest theft and export of wild animal trophies.

Are criminal sanctions for these offenses "effective, proportionate and dissuasive?"

Environmental crimes in Kosovo are punishable by either fine or a term of imprisonment. Reduced sentences are generally prescribed when crimes are committed through negligence. Sentence guidelines escalate when the crime results in damage to health of "a significant number of people", when damage is irreparable, or when the resources or species harmed are specifically protected by law.

Pollution of the environment is punishable by a fine or a maximum of 2 years in prison. When an offense causes significant damage to health the maximum sentence escalates to 5 years. Crimes that result in irreparable damage to the environment are punishable by 1 to 8 years imprisonment.

Waste pollution is punishable by a fine and imprisonment from 1 to 3 years. When the offense results in death or grievous bodily injury to one or more persons or substantial damage to property, plants, or animals, the sentence is from three to twelve years.

Constructing or operating an illegal polluting facility is punishable by a fine or up to 3 years imprisonment. Large-scale pollution escalates the sentence to 6 months to 5 years.

Unlawful hunting is punishable by a fine or imprisonment up to 1 year. Export of protected species is punishable by a fine or imprisonment up to 2 years.

Violation of Article 176 on nuclear materials is punishable by a minimum prison sentence of 5 years. When the crime results in death of one or more persons or substantial environmental damage, the punishment escalates to 10 years to life.

Does the national criminal law include liability for legal persons and for accomplices?

Article 4

Articles 31 – 35 of the Criminal Code provide for accomplice liability generally. Under these articles, a person can be held criminally liable for acting as a co-perpetrator, inciting a crime, assisting the commission of a crime or for agreement (conspiracy) to incite or commit a criminal offense. Liability for accomplices is limited by the intent of the accomplice. Sanctions generally mirror the punishment for the offense itself, with the exception of criminal assistance, which calls for “more lenient[]” sentencing.

Article 6

Article 40 of the Criminal Code provides for general criminal liability of legal persons. Liability attaches to legal entities when a person acting on behalf of that entity commits a crime with the purpose of benefitting the entity.

The applicability of the Criminal Code to legal persons, in accordance with Article 119 of the Criminal Code, is determined by a separate law: the [Law on Liability of Legal Persons for Criminal Offenses](#) (2011). Article 3 of this law states that all offenses under the Criminal Code are applicable to legal persons unless expressly stated otherwise. No such statement exists for any environmental crimes.

The sanctions applicable to legal entities may consist of fines, suspended sentences, a range of “security measures”, and stop-work orders or dissolutions.

Fines (Arts. 9-10) are determined by the maximum prison sentence for natural persons. For maximum sentences of less than 3 years (all base-level environmental crimes with the exception of nuclear materials offenses), fines range from EUR 1,000 – 5,000. The maximum fine that may be applied for any offense is EUR 100,000.

Suspended sentences (Art. 12) are fines which are not collected if the legal person does not commit a repeat offense within a set timeframe of 1-2 years.

Security measures (Art. 13) include orders to cease certain operations, confiscation of assets or benefits of criminal activity, and public sanction.

Does the state have the capacity and willingness to prosecute?

A [2015 European Policy Brief](#) cited several major institutional problems in giving effect to the new laws. The report states that Kosovo cannot currently bring itself into compliance with the Environmental Crime Directive because it lacks secondary legislation that would establish “threshold values and standards” in determining

when actions merit criminal liability. The Brief also noted that Kosovo currently lacks the financial and human resources necessary for effective enforcement against environmental crimes. Kosovo has made some efforts to boost this capacity, including by sending several representatives to participate in [THEMIS trainings](#) on environmental crimes.

Former Yugoslav Republic of Macedonia

The Former Yugoslav Republic of Macedonia's [2012 Progress Report](#) underlined a need to speed up the country's work on harmonization with the Environmental Crime Directive. The country has not taken steps to do so since 2012. The last amendments to the [Penal Code](#) were made in 2011, and [draft amendments](#) proposed in 2013 deal only with sentencing.

Are all Article 3 offenses incorporated into the Criminal Code?

Existing Macedonian criminal law does include a range of environmental offenses, some of which effectively criminalize offenses listed in Article 3 of the Directive. Articles of the Penal Code that are at least partially harmonized include:

Article of Criminal Code	Article 3 Offense
218: Pollution of air, soil, water, water surface, or water flow	3(a)
230: Waste pollution (by storage, disposal, or handling)	3(b)
218(2): Illegal construction or operation of a facility that pollutes the environment	3(d)
231: Illegal procurement, use, transport, or gift of nuclear materials 232: Illegal import of radioactive materials and hazardous waste	3(e)*
228(4): Illegal hunting of protected wild animals	3(f)**

* Article 3(e) applies to both nuclear materials and other hazardous radioactive substances. The current structure of Arts. 231 and 232 of the Penal Code only limits the importation of hazardous radioactive substances other than nuclear materials. Further, Article 231 does not cover illegal production of nuclear materials, as required by Article 3(e) of the Directive.

** Article 3(f) also requires the criminalization of destruction or possession of protected animals and animal specimens as well as protected plants and plant specimens.

Several gaps exist in the existing criminal law in Macedonia. Article 230 of the Penal Code is structured only to address pollution by an individual's handling of waste, and not to prevent illegal transnational shipments of waste, as envisioned by Directive Article 3(c).

No offenses exist for destruction of habitats within protected areas (3(h)), or for trade in ozone depleting substances (3(i)).

While Articles 228 and 229 of the Penal Code address illegal hunting and fishing, harmonization with the Directive's plant and animal crimes are minimal. A number of actions (possession, destruction, and trade) as well as a number of objects (protected plants, plant and animal specimens) need to be criminalized for harmonization with Directive Articles 3(f) and 3(g).

Illegal operation of environmentally hazardous facilities (Directive Article 3(d)) is covered under subsection 2 of Article 218 of the Penal Code. While other criminal codes in the region, and the Environmental Crime Directive itself, list this as a separate offense, the Macedonian Penal Code appears to be effectively harmonized with the goals of the Directive for this crime.

Are criminal sanctions for these offenses "effective, proportionate and dissuasive?"

Environmental crimes in FYR Macedonia are generally punishable by a fine or a term of imprisonment. The prison sentences imposed by the Penal Code, particularly for crimes that do not cause death, are relatively lengthy for the region.

Article 234 of the Penal Code introduces a separate criminal offense for "Serious Crimes Against the Environment." Serious Crimes Against the Environment consist of specific environmental crimes which

cause serious bodily injury, death, long-term consequences, or large-scale property damage. A Serious Crime Against the Environment that leads to severe bodily injury or damage to health is punishable by 1-10 years imprisonment. If a Serious Crime leads to death or long-term environmental consequences, it is punishable by no less than 4 years imprisonment. Serious crimes leading to large-scale property damage are punishable by 1-5 years imprisonment, depending on the base environmental crime.

Environmental pollution is punishable by 4-10 years imprisonment, or by 1-3 years imprisonment if committed through negligence. Environmental pollution may qualify as a Serious Crime if it leads to severe bodily injury, damage to health, death, or long-term consequences.

Waste pollution is punishable by 3 months to 3 years imprisonment. For hazardous wastes, the punishment escalates to 4-10 years imprisonment. Waste crimes committed through negligence are punishable by a prison term of 1-5 years. Waste pollution may qualify as a Serious Crime if it results in severe bodily injury or damage to health or if the waste is hazardous and results in death or long-term consequences. The Penal Code is unclear on whether waste pollution through negligence may qualify as a Serious Crime Against the Environment.

Sanctioning construction of or operation of a facility that poses a threat to the environment is punishable by at least 5 years imprisonment.

Nuclear materials crimes are generally punishable by no less than 3 years imprisonment, or no less than 5 years if the offense results in death or large-scale property damage. Article 231(2), covering nuclear materials crimes that result in danger to human life or large-scale threats to property provides a sentencing guideline of 1-10 years imprisonment, the minimum of which is inconsistent with the sentencing guidelines set out in Article 231(1).

Illegal hunting of protected animals is punishable by fine or up to 3 years imprisonment.

Does the national criminal law include liability for legal persons and for accomplices?

Article 4

Articles 22 through 25 of the Penal Code provide for criminal liability for co-perpetrators, inciters, and accomplices. Co-perpetrators and inciters are prescribed punishment identical to the principal. Accomplices may receive a more lenient sentence. Liability for accomplices is limited by the intent of the accomplice.

Article 6

The Penal Code for FYR Macedonia designates sanctions for legal entities for each crime that corresponds to the Environmental Crime Directive, with the exception of hunting of protected animals. For all other corresponding crimes, the sanction for legal entities is a fine.

Article 96(a) of the Penal Code sets the fine for legal entities between 100,000 and 30 million denars (EUR 1,600 to 485,000). Article 96(a)(3) allows the fine to be increased by up to 10 times the maximum if the crime is committed in the interest of profits. Article 96(b) provides a number of other possible sanctions for legal entities, including revocation of permits and liquidation, but these sentences are not available for crimes against the environment.

Does the state have the capacity and willingness to prosecute?

Better public reporting is needed to give a sense of FYR Macedonia's success in protecting the environment through criminal law. The last available detailed analysis of the prosecution of environmental crimes in FYR Macedonia was made for the [period of 2000-2009](#). Over that period, authorities received 1,437 reports of crimes against the environment (considering crimes committed by adults only), averaging out to 144 reports per year. From these reports, charges were brought against 698 individuals. Prosecutors maintained an 80% conviction rate.

Of the reports received, 32 were for environmental pollution, 8 were nuclear materials crimes, and 7 were for illegal import of hazardous substances. The vast majority of reports (957) belonged to the undefined category "Other". Prosecutors received 397 reports of illegal hunting, but statistics do not specify how many of these involved hunting of protected species and how many were simply permit or location violations.

The [latest statistics from 2014](#) state that 103 persons were accused of committing crimes against the environment, resulting in 90 convictions for a rate of 87%.

Moldova

Are all Article 3 offenses incorporated into the Criminal Code?

Moldova's [Criminal Code](#), last amended in 2009, contains twelve separate environmental crimes. While the structure of Moldova's criminal code is significantly different than the crimes presented in Article 3 of the Environmental Crime Directive, a number of the offenses provide the type of criminal liability envisioned by the Directive. Criminal offenses that are currently at least partially harmonized to the Directive include:

Article of Criminal Code	Article 3 Offense
228: Soil pollution; 229: Water pollution; 230: Air pollution	3(a)
224: Illegal fabrication, import, export, burial, storage, transport, or use of radioactive or toxic materials and waste	3(b)/(c)/(e)
223: Violation of environmental security requirements in designing, constructing or operating of facilities	3(d)
235: Violation of administrative protection regimes for natural areas causing large-scale environmental damage	3(h)

* Illegal shipment of waste under Directive Article 3(c) is defined by Regulation (EC) No 1013/2006 Art. 2(35)

Several more environmental crimes must be introduced into Moldova's Criminal Code before it can be functionally compliant with the Directive. The Criminal Code currently contains no offenses related to ozone-depleting substances, as required by Article 3(i) of the Directive. Further, the Criminal Code has significant shortcomings in protecting threatened plants and animals, as required by Articles 3(f) and 3(g). Articles 233 and 234 which introduce criminal liability for illegal hunting and fishing are not harmonized to the requirements of the Environmental Crime Directive, as they fail to mention protected species. Similarly, no criminal law is in place to ban the collection, destruction, or trade in protected plant species or specimens.

Additional environmental crimes in Moldova include violating subsoil protection requirements, concealment or falsification of data on pollution, and forest theft and destruction. The Criminal Code also contains an offense for failing to perform obligations to rectify environmental violations when they lead to death, mass infections, mass animal deaths, or severe environmental harm (Art 226). Article 226 thereby provides criminal liability, in certain circumstances, for offenses that would otherwise carry only civil liability.

Are criminal sanctions for these offenses "effective, proportionate and dissuasive?"

Environmental crimes in Moldova are generally punishable by a fine or a term of imprisonment. Fines are listed in "conventional units"; one conventional unit, according to Article 64 of the Criminal Code, is equal to 20 Moldovan lei (0.95 euro).

Pollution crimes receive different levels of punishment depending on the medium that was polluted. Soil pollution is punishable by a 200-500 conventional unit fine or up to 2 years imprisonment. The sentence may escalate to up to 5 years if the pollution occurs in an environmentally vulnerable area or if it causes death. Water and air pollution are both punishable by a fine of 300-800 conventional units or up to 5 years imprisonment.

Hazardous waste and radioactive materials crimes are punishable by a 200-600 conventional unit fine or by up to 3 years imprisonment. The fine and term of imprisonment escalate to 300-800 convertible units and up to 5 years imprisonment if the offense takes place in an environmentally vulnerable area or results in environmental pollution or mass animal deaths.

Facilities violations are punishable by a fine of 300-600 convertible units or 2-5 years imprisonment. A court may also impose operational restrictions for a period of up to 5 years.

Damaging protected areas is punishable by a fine of 500-1000 convertible units or up to 3 years imprisonment.

Does the national criminal law include liability for legal persons and for accomplices?

Article 4

Moldova has a complex system for imposing criminal liability on non-principal participants in crimes. Article 42 of the Criminal Code defines “participants” as persons who contribute to the commission of crimes, either as principals, organizers, instigators, or accomplices. Article 49 of the Code also criminalizes “favoring” – or the act of assisting a principal in concealing a crime, even without prior agreement.

The Code breaks down participation into 4 categories – simple participation, complex participation, organized criminal groups, and criminal organizations. The latter two categories deal specifically with different levels of organized crime. Simple participation implies a crime with two or more principals; complex participation implies a crime involving some other type of accomplice liability.

The code does not, however, specify different degrees of liability or standards of proof for the two categories of participation not involving organized crime. Article 83 merely provides that participants with the requisite criminal intent receive the same punishment as principals.

Article 6

The Moldovan Criminal Code specifically includes a prescribed criminal liability for legal entities under each individual environmental crime. Legal entities may be sanctioned with a fine, with an order to stop certain activities, or, in extreme cases, with liquidation.

Fines for legal entities are low, relative to other countries, generally being set at 1000-3000 convertible units. The maximum fine that may be applied to a legal entity in accordance with the criminal code is 6000 convertible units (EUR 5760). Such fines are only applicable when the offense causes the death of one or more persons or results in the pollution of an environmentally vulnerable area.

Does the state have the capacity and willingness to prosecute?

Moldova’s capacity to enforce environmental criminal law appears to be minimal. A 2015 [UNECE Report](#) notes that environmental standards are largely out of date and pollutant monitoring capabilities are limited. Notably, because Article 2(a) of the Environmental Crime Directive defines illegality by reference to EU environmental legislation, the use of outdated, Soviet-era environmental standards is a significant obstacle to effective harmonization with the Directive.

According to the annual reports of the Office of the Prosecutor General for 2010 and 2011 (the last years for which such reports are available), enforcement of environmental crimes has been extremely limited. The [2010 Report](#) notes that prosecutors participated in environmental compliance inspections with environmental monitoring authorities. Though the report notes progressively worsening pollution and waste dumping problems, no criminal prosecutions were brought despite the mechanism existing within the Criminal Code. The [2011 Annual Report](#) notes that 4 criminal cases were filed for forest theft crimes.

Montenegro

Montenegro [informed the EU](#) in 2013 that it had transposed most of the provisions of Directive 2008/99/EC. Its [2011 Progress Report](#) stated that Montenegro had passed a new law providing for special sanctions for environmental violations. The Montenegro Criminal Code was amended in 2013, criminalizing several new environmental offenses.

Are all Article 3 offenses incorporated into the Criminal Code?

The [2003 Criminal Code](#) included several offenses against the environment, which were expanded by [amendments](#) made to the code in 2013. Today, Montenegro's Criminal Code is fully harmonized to the offenses listed in Article 3 of the Environmental Crime Directive. The current criminal offenses as they correspond to the offenses listed in the Directive are:

Article of Criminal Code	Article 3 Offense
303: Pollution of air, water, and soil	3(a)
303a: Pollution through collection, transport, processing, disposal, or removal of waste	3(b)/(c)*
305: construction or operation of facilities that pollute environment	3(d)
313: Illegal export or import of nuclear material or other hazardous radioactive substances 314: Illegal handling, use, production or processing of nuclear materials or other hazardous radioactive substances	3(e)
308: Destruction of plants and possession of protected plant species or specimen 309: Killing of protected animal species and destruction of their habitat	3(f)
312: Illegal export or import of a protected plant or animal species or specimen	3(g)
307: widespread damage to the environment; 309: Killing of protected animal species and destruction of their habitat	3(h)**
303b: Producing or illegally trading in ozone depleting substances	3(i)

* Illegal shipment of waste under Directive Article 3(c) is defined by Regulation (EC) No 1013/2006 Art. 2(35)

** Article 3(h) of the Directive specifically covers destruction of habitats within protected sites

Are criminal sanctions for these offenses “effective, proportionate and dissuasive?”

Environmental crimes in Montenegro are punishable either by a fine or prison sentence. Prison sentences are generally reduced for crimes committed through negligence and increased when the offense leads to substantial environmental damage, grievous bodily harm, or death. Generally, when the harm caused by an offense is substantial or leads to the death of one or more persons the sentence escalates to 1-8 years or 3-12 years, respectively.

Pollution of the environment is punishable by up to 3 years imprisonment. If a suspended sentence is issued, the court may order the defendant to undertake certain measures for protecting or restoring the environment.

Waste pollution is also punishable by up to 3 years imprisonment. When the harm is substantial or leads to the death of one or more persons the sentence escalates to 1-8 years and 3-12 years, respectively.

Operation of an environmentally harmful facility carries a sentence of 6 months to 5 years.

Radioactive materials offenses are punishable by up to 3 years imprisonment.

Possession of protected plant species or specimens is punishable by up to 1 year in prison. Killing or possessing protected animal species or specimens is punishable 6 months to 5 years in prison. Trade in protected specimens receives a sentence of 3 months to 3 years.

Causing significant environmental harm is punishable by 6 months to 5 months imprisonment.

Production of or trade in ozone depleting substances carries a prison sentence of up to 3 years.

Does the national criminal law include liability for legal persons and for accomplices?

Article 4

Article 23-27 of the Criminal Code provide for accomplice liability. Under these articles a person can be held liable for co-perpetrating, inciting or aiding the commission of a crime. All forms of accomplice liability are punishable by the same sentence as received by principals, though a reduced sentence may be prescribed for aiding the commission of a crime. Liability is limited by the intent of the accomplice.

Article 6

[The Law on Criminal Liability of Legal Persons \(2007\)](#) provides generally for criminal liability for legal entities. Article 5 of this law provides that legal entities may be held liable when a criminal offense is committed by a natural person acting on behalf of the entity with the intention of obtaining any gain for the entity.

The following sanctions may be applied to legal persons: fine, dissolution, a suspended sentence, or a range of security measures.

Fines are set based on the amount of damage caused or material gain acquired. The minimum fine is 2-times the damage or gain and the maximum is 100-times.

Security measures include seizure of property, restrictions on operations and public censure.

Does the state have the capacity and willingness to prosecute?

Montenegro has [acknowledged](#) that further work in capacity building – particularly within the judicial system – is needed to effectively implement these amendments.

The [2014 Annual Report of the Public Prosecutor's Office](#) states that 554 environmental crimes were reported in 2014 – a 19% increase from the prior year. Out of these reports, the Prosecutor's Office obtained 334 convictions resulting in 33 prison terms, 34 fines, 6 sentences to community services, 259 suspended sentences, and 2 public censures. The vast majority of crimes reported were for building without a permit (246 reports) and forest theft (194 reports).

Serbia

The EU-funded [Policy Law and Advice Centre \(PLAC\)](#) launched a tender in 2014 to analyze the level of harmonization of the Serbian Criminal Code and other environmental legislation with the Environmental Crime Directive. The results have not been published. Serbia's [National Programme for Adoption of the Acquis \(2014-2018\)](#) does not list a timetable for full transposition of Directive 2008/99/EC, noting that it is contingent on further amendments being made to the Criminal Code.

Are all Article 3 offenses incorporated into the Criminal Code?

In its 2010 [answers](#) to the European Commission's questionnaire, Serbia stated that the crimes currently included in Chapter 24 of its Criminal Code are "in compliance with EU Directive [2008/99/EC]." The [Criminal Code](#), as amended in 2012, contains several environmental offenses. The following offenses are at least partially harmonized to the Environmental Crime Directive:

Article of Criminal Code	Article 3 Offense
260: Pollution of air, water, and soil	3(a)
262: Construction or operation of facilities that pollute environment	3(d)
266: Importation, transportation, processing, depositing, collecting, or stockpiling	3(e)*

nuclear materials or other hazardous waste	
269: Killing an animal in breach of regulations 276: Poaching game; 277: Poaching fish	3(f)**
265: Export or import of a protected animal or plant species	3(g)***
264: Damaging the environment	3(h) [†]

* Article 266 does not cover the production or use of nuclear materials, as required by Dir, Art. 3(e)

** Articles 269, 276, and 277 only address killing animals in contradiction to regulations. In order to be harmonized with Dir. Art. 3(f) they must reference protected species (including plant species) and also criminalize destruction or possession, including for specimens.

*** Article 265 references only export/import and not trading more generally. Criminalization of trade in specimens of protected species is also needed for full harmonization.

[†]Article 3(h) of the Directive specifically covers destruction of habitats within protected sites

In addition to the gaps identified above, Serbia's criminal code lacks offenses for handling and transport of waste (3(b) and 3(c)) and production, use, or trading in ozone-depleting substances (3(i)).

Are criminal sanctions for these offenses “effective, proportionate and dissuasive?”

Environmental crimes in Serbia are punishable by a fine and/or a prison term. Prison sentences are generally reduced for crimes committed through negligence and increased when the offense results in damage that results in a longer or more expensive clean-up effort. If a court issues a suspended sentence, it may also order specific measures to be undertaken for environmental protection or remediation.

Environmental pollution is punishable by a fine and a 6 month to 5 year prison term. If the offense is committed through negligence the court may impose a punishment of a fine and not more than 2 years imprisonment. Offenses that result in greater clean-up time or expense are punishable by a fine and between 1 and 8 years imprisonment.

Illegal construction or operation of a plant is punishable by between 6 months and 5 years imprisonment. If the offense results in significant environmental damage the sentence escalates to between 1 and 8 years imprisonment.

Damaging the environment is punishable by up to 3 years imprisonment, unless caused by negligence, which lowers the maximum term to 1 year.

Nuclear and hazardous materials crimes are punishable by a fine and from 6 months to 5 years imprisonment. Offenses resulting in significant environmental damage escalate the sentence to 2 to 10 years.

Illegal killing of animals is punishable by up to 1 year in prison and illegal hunting is punishable by up to 6 months. Export or import of protected species is punishable by 3 months to 3 years imprisonment and by confiscation of the protected plant or animal.

Does the national criminal law include liability for legal persons and for accomplices?

Article 4

Chapter 3 of the Criminal Code of Serbia covers accomplice liability. Under this chapter, an actor may be held criminally liable for co-perpetrating, inciting, or aiding and abetting a crime. Inciters receive the same sanction as principals to the crime, and aiders and abettors may receive either the same or a reduced penalty. Accomplice liability is limited by the intent of the accomplice.

Article 6

Pursuant to Article 12 of the Criminal Code, criminal liability for legal persons is provided for in the separate [Law on the Liability of Legal Entities for Criminal Offences](#) (2008). In accordance with Article 6 of that law, a legal entity may be held criminally liable when a natural person operating on behalf of the entity commits a crime for the entity's benefit. Alternatively, a legal entity may be held liable when lack of supervision or control over the responsible party acting on its behalf allowed for the commission of the crime.

The following sanctions may be applied to legal persons: fine, dissolution, a suspended sentence, or a range of security measures.

Fines are set between RSD 100,000 and 500,000,000 (EUR 830 to 4,150,000).

Security measures include confiscation of instrumentalities, restrictions on operations, and public censure.

Does the state have the capacity and willingness to prosecute?

Available studies of the effectiveness of Serbia's prosecution of environmental crimes are largely out-of-date, but generally note shortcomings in the state's capacity to enforce environmental criminal law. For example, a [2007 UNECE Report](#) remarks that environmental monitoring capacity in Serbia is weak, many important environmental standards are absent, and general awareness of the law is low. Some observers have also noted a failure to understand the importance of environmental protection by judicial officials.

The statistical service of the Public Prosecutor's Office shows that – of the crimes that are partially harmonized to the Directive – the most commonly prosecuted crime is for the killing and torturing of animals (51 cases in 2014). However, the statistical service does not provide a breakdown of cases, and it is unclear which of these cases related specifically to the killing of protected species.

Detection and enforcement of other crimes covered by the Directive is minimal, with 3 environmental pollution cases in 2014, and no cases of facilities violations since 2013.

Annex A: Crimes under Directive Article 3

Offences

Member States shall ensure that the following conduct constitutes a criminal offence, when unlawful and 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 or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;
- (b) the collection, transport, recovery or disposal of waste, including the supervision of such operations and the aftercare of disposal sites, and including action taken as a dealer or a broker (waste management), which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;
- (c) the shipment of waste, where this activity falls within the scope of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;
- (d) the 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, the quality of soil or the quality of water, or to animals or plants;
- (e) the production, processing, handling, use, holding, storage, transport, import, export or disposal 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, the quality of soil or the quality of water, or to animals or plants;
- (f) the killing, destruction, possession or taking of specimens of protected wild fauna or flora species, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;
- (g) trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;
- (h) any conduct which causes the significant deterioration of a habitat within a protected site;
- (i) the production, importation, exportation, placing on the market or use of ozone-depleting substances.

Annex B: Full list of relevant EU legislation

List of Community legislation adopted pursuant to the EC Treaty, the infringement of which constitutes unlawful conduct pursuant to Article 2(a)(i) of Directive 2008/99/EC:

- Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles;
- Council Directive 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles;
- Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils;
- Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water;
- Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations;
- Council Directive 77/537/EEC of 28 June 1977 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in wheeled agricultural or forestry tractors;
- Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry;
- Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances;
- Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds;
- Council Directive 82/176/EEC of 22 March 1982 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry;
- Council Directive 83/513/EEC of 26 September 1983 on limit values and quality objectives for cadmium discharges;
- Council Directive 84/156/EEC of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry;
- Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants;
- Council Directive 84/491/EEC of 9 October 1984 on limit values and quality objectives for discharges of hexachlorocyclohexane;
- Council Directive 85/203/EEC of 7 March 1985 on air quality standards for nitrogen dioxide;
- Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture;
- Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC;
- Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos;
- Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms;
- Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment;
- Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market;
- Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- Council Directive 91/689/EEC of 12 December 1991 on hazardous waste;
- Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
- Council Directive 92/112/EEC of 15 December 1992 on procedures for harmonising the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry;
- Directive 94/25/EC of the European Parliament and of the Council of 16 June 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft: the provisions amended by Directive 2003/44/EC;
- European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste;

- European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations;
- Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail;
- Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT);
- Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management;
- Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances;
- Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery;
- Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein;
- Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market;
- Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels;
- Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption;
- Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations;
- Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air;
- Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste;
- Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels;
- Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end of life vehicles;
- Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;
- Directive 2000/69/EC of the European Parliament and of the Council of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air;
- Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste;
- Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer;
- Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms;
- Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants;
- Directive 2002/3/EC of the European Parliament and of the Council of 12 February 2002 relating to ozone in ambient air;
- Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment;
- Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE);
- Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air;
- Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents;
- Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants;
- Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in

- vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles;
- Commission Directive 2005/78/EC of 14 November 2005 implementing Directive 2005/55/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles and amending Annexes I, II, III, IV and VI thereto;
 - Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality;
 - Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community;
 - Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste;
 - Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries;
 - Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air conditioning systems in motor vehicles;
 - Directive 2006/44/EC of the European Parliament and of the Council of 6 September 2006 on the quality of fresh waters needing protection or improvement in order to support fish life;
 - Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators;
 - Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration;
 - Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases;
 - Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste;
 - Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information;
 - Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply;
 - Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control.

List of Community Legislation adopted pursuant to the Euratom Treaty, the infringement of which constitutes unlawful conduct pursuant to Article 2(a)(ii) of Directive 2008/99/EC:

- Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation;
- Council Directive 2003/122/Euratom of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources;
- Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radio active waste and spent fuel.