



Brussels, 9 December 2022
(OR. en)

Interinstitutional File:
2021/0422(COD)

15006/22
ADD 4

COPEN 409
DROIPEN 155
ENV 1209
JAI 1558
CODEC 1841

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 14734/22, WK 16106/22 REV 1
No. Cion doc.:	ST 14459/21 + COR 1 + ADD 1 + ADD 2 COR 1 + ADD 3
Subject:	Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law - General approach - Declaration by the Hungarian delegation

Declaration by the Hungarian delegation

Hungary presents the following declaration for the minutes of the Council meeting at which the draft Directive has been considered:

‘Hungary is fully committed to protecting the environment, including through the use of effective and efficient criminal measures. Therefore, as a compromise, we support the adoption of the general approach.

However, for the future negotiations with the Parliament, we consider that basic principles of criminal law, and concepts such as *mens rea* and the related sanctions, as well as the sanctions against legal persons need to be reconsidered and further debated. We are not convinced that the current proposal will address the existing and visible gaps. Rather, it is likely to lead to uncertainty for the implementation; it is also likely to result in diverging national legal solutions and to non-uniform application by the courts. We remain convinced that the fundamental principles governing national criminal law, and the national justice systems should be respected to a greater extent during the future negotiations. The attitude expecting responsibility for efficient governance and lawmaking would produce greater impact, and most importantly, it would lead to functional measures at national level. In this regard, we also join other delegations in stating that every new proposal in criminal law introduces additional elements that will become standard for future European Union instruments. Although these requirements are formally limited to specific areas of crime, the Member States must guarantee that their criminal law forms a coherent system. This means that the transposition of such rules will inevitably lead to changes affecting the entire criminal justice system of a Member State.

Similarly to other delegations, we doubt whether the proposed penalties for natural persons in Article 5 (when the crime is committed with serious negligence), harmonizing sanctions for legal persons in Article 7 remain within the scope of minimum harmonisation. We would therefore like to ensure that harmonisation of criminal law remains minimum harmonisation.’
