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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 Estonian delegation

Estonia presents the following declaration for the minutes of the Council meeting at which the draft Directive will be considered:

‘Estonia fully supports the objectives of the proposal for the Directive on the protection of the environment through criminal law and replacing Directive 2008/99/EC.

Estonia is able to accept the general approach as a compromise, but we would like to voice our concerns on the evolution of European Union criminal law. Every new proposal in the field of criminal law introduces additional elements that will inevitably become a standard for future European Union instruments. Although these requirements are formally limited to specific areas of crime, the Member States must also guarantee that their criminal law forms a coherent whole. This means that the transposition of such rules will often lead to changes that will affect the entire criminal justice system of a Member State.

Paragraph 1 of Article 83 of the Treaty on the Functioning of The European Union (TFEU) allows for establishing minimum rules concerning the definition of criminal offences and sanctions. Paragraph 3 of Article 83 and paragraph 1 of Article 67 highlight the importance of safeguarding the legal traditions and fundamental aspects of national criminal justice systems. It is becoming increasingly doubtful whether some of these specific novel rules that are being contemplated by new Directives, are indeed the minimum requirements as envisaged by paragraph 1 of Article 83 TFEU or go beyond the necessary minimum. Estonia finds it questionable, whether harmonising penalties for natural persons in Article 5 when the crime is committed with serious negligence, harmonising sanctions for legal persons in Article 7 and harmonising limitation periods in Article 11 remain within the scope of minimum harmonisation. We would therefore like to call on the Commission and Council to ensure that harmonisation of criminal law would indeed be minimum harmonisation.’
