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Editorial

EDITORIAL

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Dear Readers,

Breaches of environmental laws often cause substantial damage to people's health and the environment. Unlawful pollution, waste dumping and trafficking, violations of wildlife protection, and illegal mining without development permission can have devastating effects. Moreover, environmental offences distort the level playing field for honest businesses and cause both direct and indirect losses to public finances (e.g., higher health expenditure). For the perpetrators, such offences are lucrative and for enforcement authorities not always visible while technically complex, which makes them difficult to investigate. For this reason, environmental transgressions – including environmental crimes – are on the rise.

Given their complex nature, a holistic approach is called for when tackling environmental offences. During its 2019-2024 mandate, the European Union made major progress in dealing with environmental crime by means of both administrative and criminal law. This "toolbox-approach" has aimed to put forward a range of criminal and non-criminal measures that enable tailored responses to each breach of environmental law.

First, a number of revised or new EU laws contain new provisions strengthening administrative enforcement against breaches of environmental law. In this context, provisions on penalties were also changed and revised. In the past, EU environmental laws usually provided for general provisions requiring "proportionate, dissuasive and effective" penalties. Several new laws, however, now include requirements for factors to be considered when applying penalties, and some of them even contain concrete types of penalties. For example, provisions which set out factors for setting penalties and provide for certain types of penalties are provided in the revised Industrial Emissions Directive. The new laws also build on past experience and provide detailed, new provisions strengthening administrative enforcement. For example, the new Waste Shipment Regulation contains detailed provisions on inspections and will enable OLAF to carry out several investigative actions in the context of environmental offences. Detailed provisions on enforcement are also in the new regulations on substances that deplete the ozone layer as well as on fluorinated gases, the amended Ambient Air Directive, and others.

Second, the protection of the environment through criminal law will be strengthened in the future, thanks to the new Environmental Crime Directive which entered into force in May 2024. This Directive aims to improve the effectiveness of criminal law enforcement against the most serious environmental offences. It updates and complements the list of the most severe breaches of EU environmental law that need to be criminalised in EU Member States (except for Denmark, due to its opt out on EU criminal law policy, and for Ireland, which did not opt in to participate in this Directive). The new Environmental Crime Directive also establishes qualified offences for cases in which serious damage to or destruction of the environment is caused by commission of one of the offences defined in the Directive. It provides for types and levels of penalties for natural and legal persons who commit environmental offences. And, ultimately, the Directive aims to strengthen law enforcement and to support members of civil society who report environmental offences and cooperate with representatives of law enforcement.

The challenge that lies ahead is to make these new laws effective on the ground. The European Commission certainly has this in mind, because – in the spirit of the Political Guidelines 2024-2029 – better enforcement and implementation is one of its key priorities.

* Author statement

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