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ALTERNATIVE AND ACCESSORY CRIMINAL- -LAW MEASURES IMPOSED IN ADDITION TO THE PENALTY FOR THE RESTORATION OF A DESTROYED OR ENDANGERED ENVIRONMENT AS A SPECIAL STANDARD OF DIRECTIVE (EU) 2024/1203**

ABSTRACT: This paper analyzes the role of alternative and accessory criminal-law measures under Directive (EU) 2024/1203 on the protection of the environment through criminal law. The focus of this analysis is on measures that go beyond imprisonment and

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finances, particularly the restoration of the damaged environment, compensation for irreversible damage, exclusion from public funding, withdrawal of permits and authorizations, and publication of judgments. The paper examines the Directive's approach to natural and legal persons, presents selected comparative examples, and considers relevant solutions in North Macedonian law. It concludes that restorative and preventive measures are essential for an effective response to environmental crime because principal penalties alone cannot repair environmental damage or prevent future offenses.

Keywords: protection of the environment, environmental criminal law, alternative and supplementary measures, restorative measures, judicial protection, good practices

1. INTRODUCTION

Environmental protection has become a global challenge because human activities increasingly endanger ecosystems and biodiversity, and have a significantly negative impact on public health. While regulatory frameworks and compliance mechanisms in the civil sector play an essential role in preserving the environment, criminal law provides a powerful instrument for deterring violations of the law, establishing the criminal liability of offenders, and imposing obligations to restore what has been destroyed. The complementarity of criminal and administrative law is crucial for preventing and deterring unlawful conduct that harms the environment, but administrative penalties are insufficient.

Environmental protection is one of the fundamental objectives of the European Union, set out in Article 191 of the Treaty on the Functioning of the European Union.¹ It is very important that criminal law in the field of the environment has been established as an autonomous legal field.² Namely, EU environmental policy contributes to preserving, protecting, and improving the quality of the environment, protecting human health, using natural resources prudently and rationally, promoting measures at the international level to

¹ Member States of the European Union, Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, OJ C 202, June 7, 2016. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2016:202:TOC>.

² Europol, Serious and Organised Crime Threat Assessment (SOCTA) report, 2021, 98; Olsen Lundh, C. (2024). The Revised EU Environmental Crime Directive Changes and Challenges in EU Environmental Criminal Law with Examples from Sweden. *Eucrim*, 19(2), 164–172. Available at: <https://eucrim.eu/articles/the-revised-eu-environmental-crime-directive/>.

address regional or global environmental problems, and, in particular, combating climate change. EU policy in the field of the environment aims at a high level of protection and is based on the precautionary principle, the principle of preventive action, the principle that environmental damage should, as a priority, be remedied at source, and the “polluter pays” principle. In light of the increasing frequency and complexity of criminal offenses against the environment, Directive (EU) 2024/1203 was adopted in response to the insufficient effectiveness of the previous instruments (2008/99/EC and 2009/123/EC).

One of the aspects indicating the need to adopt the 2024 Directive³ was the fact that the penalties under Directive 2008/99/EC were insufficient to achieve compliance with EU law concerning the protection of the environment through the availability of effective, proportionate, and dissuasive criminal sanctions. The 2024 Directive introduces new standards in the definition of criminal offenses, penalties, and measures for restoring and preventing environmental damage. Namely, penalties should be made more severe in order to strengthen their deterrent effect and to improve the effectiveness of the detection, investigation, prosecution, and adjudication of criminal offenses against the environment.

Alternative and accessory measures have a strong preventive function, since they reduce the risk of recidivism, encourage environmental responsibility, and raise awareness of the consequences of environmental crime. The EU has set the objective of reducing environmental crime ambitiously and leaves very little room for action to the legislatures of the Member States, which will have to transpose the European standards contained in this Directive before May 21, 2026. At the same time, the 2024 Directive requires Member States to adopt national strategies for combating environmental crime by 2027, including training for judges and prosecutors, public campaigns, and stronger support for whistleblowers.

The scope, prevalence, and high level of corruptive potential lead some authors to classify this form of crime as serious “white-collar crime.”⁴ Corruption exists because various forms of bribery and trading in influence involve high-ranking public officials, politicians, and members of law-enforcement authorities, but the existence and influence of corruption in the private sector,

³ European Union: Council of the European Union, Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC, PE/82/2023/REV/1 OJ L, 2024/1203, 30 April 2024.

⁴ Steinzor, R. (2016). How Criminal Law Can Help Save the Environment. Faculty Scholarship. Available at: https://digitalcommons.law.umaryland.edu/fac_pubs/1563.

which GRECO has assessed as highly concerning, must not be overlooked.⁵ Criminal law should serve as a means of deterring environmental crime through the imposition of strict criminal sanctions and measures on those engaged in unlawful activities that endanger the environment, unlike fines imposed in administrative or civil proceedings.

2. RELEVANT ASPECTS OF DIRECTIVE 2024/1203 IN RELATION TO CRIMINAL OFFENSES

After the evaluation of the application of Directive 2008/99/EC was carried out,⁶ areas in which there is room for improvement were identified. Namely, EU environmental law, together with the harmonization of criminal law in the field of the environment, includes several aspects, but three are particularly important: expanding the scope of criminal offenses to include unlawful timber trade, unlawful abstraction of surface water, unlawful ship recycling, circumvention of the operator's obligation to carry out an environmental impact assessment (EIA), and the introduction or spread of alien species; specific types and levels of criminal sanctions, including minimum and maximum terms of imprisonment applicable to natural persons and fines applicable both to individuals and to legal persons; and improving police and judicial cooperation in criminal matters in the context of transnational environmental crime.

Directive 2024/1203 is probably one of the few EU directives adopted after a short negotiation period; namely, the negotiations lasted only two years,⁷ since it consolidated some already established aspects of protection and punishment for endangering the environment from the previous two directives concerning environmental protection.⁸ This Directive has made a significant

⁵ Mrčela, M. (2023). Anti-Corruption Day: Governments must fight environmental corruption. Available at: <https://www.coe.int/en/web/greco/-/anti-corruption-day-governments-must-fight-environmental-corruption>.

⁶ European Commission, Commission Working Document, Evaluation of the Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law ('Environmental Crime Directive'), Brussels, 28 October, 2020. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0260>.

⁷ Pereira, R. (2024). A critical evaluation of the new EU Environmental Crime Directive 2024/1203. *Eucrim*, 19(2), 158–163. Available at: <https://eucrim.eu/articles/critical-evaluation-of-the-new-eu-environmental-crime-directive/>.

⁸ European Union: European Parliament and Council of the European Union, Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on

contribution both with regard to criminal offenses in the field of environmental protection and with regard to the sanctions that national legislatures should prescribe in criminal legislation. Failure to comply with a legal duty to act may have the same negative effect on the environment and human health as active conduct; therefore, definitions of criminal offenses should cover both active conduct and omissions, where applicable.⁹

The Directive expands the number of environmental criminal offenses in the EU Member States, introduces specific types and different levels of criminal sanctions, and also contains special rules on interstate cooperation in criminal matters, since environmental crime is transnational and, to a large extent, a form of organized crime. Namely, the list of criminal offenses has been expanded from 9 to 20, including unlawful waste management, illegal logging, unlawful discharge of polluting substances, and the execution of projects without an environmental permit.

Nevertheless, there are criticisms that the EU Member States are failing to address the problems of environmental criminal offenses appropriately, since several serious criminal offenses against the environment – unlawful, unreported, and unregulated fishing and underwater noise pollution – are still not covered by the Directive.¹⁰

The diversity of the criminal offenses leads to the conclusion that the 2024 Directive adopts all three approaches: the ecocentric, anthropocentric, and biocentric approaches. By accepting a description of a criminal offense that is, in fact, Ecocide (Article 3, paragraph 3, points (a) and (b)),¹¹ the 2024 Directive adopts the biocentric approach. Namely, biocentrism is the view that all living beings have inherent value, regardless of their usefulness to humans.

the protection of the environment through criminal law, OJ L 328, 6 December, 2008, 28–37; European Union: European Parliament and Council of the European Union, Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements, OJ L 280, 27 October, 2009, 52–55.

⁹ Recital 7, European Union: Council of the European Union, Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC, PE/82/2023/REV/1 OJ L, 2024/1203, 30 April 2024.

¹⁰ WWF, Member States against strong EU rules to penalize environmental crimes, 9 December, 2022. Available at: <https://www.wwf.eu/?8400366/Member-States-against-strong-EU-rules-to-penalise-environmental-crimes>.

¹¹ Art. 3 – Member States shall ensure that criminal offenses relating to conduct listed in paragraph 2 constitute qualified criminal offenses if such conduct causes: (a) the destruction of, or widespread and substantial damage which is either irreversible or long-lasting to, an ecosystem of considerable size or environmental value or a habitat within a protected site; or (b) widespread and substantial damage which is either irreversible or long-lasting to the quality of air, soil, or water.

Unlike anthropocentrism, biocentrism does not place humans at the center but sees them as equal living beings within the ecosystem. In this sense, nature is protected not only for the well-being of people, but also because of the right of other living beings to exist.¹²

Within the criminal offenses provided for by the 2024 Directive, there is also an ecocentric approach,¹³ which is based on the idea that humans and their activities are inseparably connected with the rest of the natural world,¹⁴ and that humans are part of nature, but are neither above nor below the rest of the natural world. This is why ecocentric philosophy is understood as relational, recognizing that humans need to use natural resources in order to survive, but also have a corresponding responsibility to use resources in a way that minimizes the impact on the environment and other species.¹⁵ This approach is reflected in the criminalization of the destruction of the habitat of a rare species, regardless of the fact that there is no economic damage.

Article 11 of the Directive harmonizes the limitation periods for the criminal offenses covered by the Directive, which, depending on the prescribed penalties, may be three, five, or ten years, and also establishes the rules for determining jurisdiction that are necessary for the proper functioning of the Directive, since a large part of the criminal offenses committed in the context of environmental protection are cross-border in nature.

3. CONTRIBUTION OF EU DIRECTIVE 2024/1203 WITH REGARD TO PRESCRIBED SANCTIONS

The Directive contribution with regard to sanctions is significant.¹⁶ This approach is also the result of decisions of the Court of Justice of the European

¹² de Lucia, V. (2017). Beyond anthropocentrism and ecocentrism: a biopolitical reading of environmental law. *Journal of Human Rights and the Environment*, 8(2), 181–202.

¹³ For more on the specific features of the ecocentric approach, see: Killeen, R., Newton E. (2025). From ecocide to ecocentrism: Conceptualising environmental victimhood at the International Criminal Court. *International Review of Victimology*, 31(2), 238–264. Available at: <https://journals.sagepub.com/doi/pdf/10.1177/02697580241269426>.

¹⁴ Brisman, A., South, N. (2019). Green Criminology and Environmental Crimes and Harms. *Sociology Compass*, 13(1).

¹⁵ Halsey, M., White, R. (1998). Crime, Ecophilosophy and Environmental Harm. *International Journal of Forensic Mental Health*, 2(3).

¹⁶ European Union, The EU extends the list of environmentally unfriendly behaviour that can be punished under criminal law, 7 October, 2024. Available at: https://www.garrigues.com/en_GB/new/eu-extends-list-environmentally-unfriendly-behaviour-can-be-punished-under-criminal-law.

Union, in which the Court found that the 2008 Directive did not contain the types and levels of sanctions that could be imposed in order for them to genuinely achieve their purpose and be dissuasive.¹⁷

Precisely for this reason, the fact that the 2024 Directive defines specific criminal sanctions applicable to both natural and legal persons for the commission of criminal offenses should be understood as a step forward in sanctioning. This approach is consistent with the effort to ensure punishment by effective, proportionate, and dissuasive criminal sanctions.

Nevertheless, there is criticism that the mandatory nature of these supplementary sanctions was abandoned during negotiations on the final text of the 2024 Directive, as a result of the insistence of the Member States within the Council of the EU, so these sanctions became optional and may be criminal or non-criminal in nature.¹⁸

3.1. Sanctions for Natural Persons

With regard to natural persons who commit criminal offenses, Article 5, paragraph 2 of the Directive prescribes minimum ranges of terms of imprisonment that Member States must necessarily provide for natural persons who have committed the various punishable acts provided for. The terms of imprisonment should be at least three years and may extend to a maximum term of at least 10 years if the criminal offense has caused the death of a person, primarily including criminal offenses related to pollution control, which indicates the anthropocentric orientation of the 2024 Directive. This is an orientation that exists in traditional criminal law, and, according to this approach, the biological, mental, and moral superiority of humans over all other living and non-living beings is emphasized.¹⁹ Within environmental law, this approach implies that the environment is protected as a condition for a healthy life and the economic development of human beings, and that criminal offenses are defined as harm to people, property, or the public interest.²⁰ From

¹⁷ Case C-176/03, European Court of Justice, *Commission of the European Communities v Council of the European Union*, [2005], I-7879; Case C-440/05, European Court of Justice, *Commission of the European Communities v Council of the European Union*, [2007] I-0909.

¹⁸ WWF, *Member States against strong EU rules to penalize environmental crimes*, 9 December, 2022. Available at: <https://www.wwf.eu/?8400366/Member-States-against-strong-EU-rules-to-penalise-environmental-crimes>.

¹⁹ Halsey, M., White, R. (1998). *Crime, Ecophilosophy and Environmental Harm*. *International Journal of Forensic Mental Health*, 2(3).

²⁰ For more on the anthropocentric approach, see: Birnie, P., Boyle, A., Redgwell, C. (2009). *International Law and the Environment*. Oxford University Press; Kotzé, L. J. (2016). *Global Environmental Constitutionalism in the Anthropocene*. Hart Publishing.

this perspective, the protection of water and air is important because people need them for survival, while the preservation of animal species is important because people enjoy observing wildlife.²¹

Accessory sanctions for natural persons may be criminal or non-criminal in nature and include the obligation to restore the environment within a given period, where the damage is reversible, or to pay compensation for the damage caused to the environment, where the damage is irreversible or the offender is unable to carry out such remediation; fines; exclusion from access to public funding, including tender procedures, grants, concessions, and licenses; disqualification from holding, within a legal person, a leading position of the same type as the position used for the commission of the criminal offense; withdrawal of permits and authorizations to pursue activities that resulted in the relevant criminal offense; temporary bans on running for public office; and, where there is a public interest, following a case-by-case assessment, publication of all or part of the judicial decision relating to the criminal offense committed and the penalties or measures imposed.

3.2. Sanctions for Legal Persons

With regard to the criminal liability of legal persons, Article 6 of the Directive imposes an obligation on Member States to ensure that legal persons are held liable for the criminal offenses provided for where such offenses have been committed for the benefit of the legal person by any person who has a leading position within that legal person or by persons under their authority, where there has been a lack of supervision or control. As regards penalties imposed on legal persons, it is established that Member States must ensure that criminal or non-criminal fines, as well as accessory penalties, are imposed. The Directive provides a series of minimum thresholds for fines imposed as a result of the commission of criminal offenses, and that minimum level may be either a prescribed percentage of the total worldwide turnover of the convicted legal persons or a fixed amount of up to EUR 40 million.

Among the accessory sanctions imposed on legal persons are the obligation to restore the environment within a given period, where the damage is reversible, or to pay compensation for damage caused to the environment, where the damage is irreversible or the offender is unable to carry out such remediation; exclusion from entitlement to public benefits or aid; exclusion from access to public funding, including tender procedures, grants,

²¹ Simmons, G., Vardy, M., Stevenson, R. (2021). *Ecophilosophies Within Green Criminology*, in: Simmons, G. (2021). *Introduction to Criminology*. Kwantlen Polytechnic University Pressbooks.

concessions, and licenses; a temporary or permanent ban on carrying on business activities; withdrawal of permits and authorizations to pursue activities that resulted in the relevant criminal offense; placement under judicial supervision; judicial winding-up; closure of establishments used for the commission of the criminal offense; an obligation to establish due diligence schemes for improving compliance with environmental protection standards; and, where there is a public interest, publication of all or part of the judicial decision relating to the criminal offense committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.

4. ANALYSIS OF CERTAIN ALTERNATIVE AND ACCESSORY MEASURES

Recognizing that principal penalties (imprisonment and fines) are not effective when the environment is concerned, since principal penalties affect the offender but do not contribute to improving the environment that has been destroyed or endangered, it is very important that the Directive places strong emphasis on alternative and accessory penalties and measures. Namely, in the spirit of the Directive, both criminal and non-criminal penalties or measures may have a deterrent effect, which overcomes the view that only imprisonment or a high fine can have such an effect. Quite the contrary, in some cases, an offender is more affected by a non-penal deterrent measure of an alternative or accessory nature than by the principal criminal penalty.

As may be concluded from the cited provisions of the Directive, alternative and accessory measures differ with respect to natural and legal persons, but some are nevertheless identical:

- the obligation to restore the environment within a given period, where the damage is reversible, or to pay compensation for damage caused to the environment, where the damage is irreversible, or the offender is unable to carry out such remediation;
- exclusion from access to public funding, including tender procedures, grants, concessions, and licenses;
- withdrawal of permits and authorizations to pursue activities that resulted in the relevant criminal offense;
- where there is a public interest, publication of all or part of the judicial decision relating to the criminal offense committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.

4.1. Restoration of the Environment as an Accessory Criminal-Law Measure

The obligation to restore the environment represents a new standard in EU criminal law, since Article 7 of the Directive provides that Member States must prescribe measures that make possible: land reclamation; the cleaning of watercourses; the repopulation of endangered species; and the removal of invasive species.²²

The obligation to restore the environment within a given period may be imposed where the damage is reversible, or payment of compensation for damage caused to the environment may be imposed where the damage is irreversible, or the offender is unable to carry out such remediation.

This measure may be imposed as a supplement to a penalty, but also as an alternative to imprisonment or a fine, especially in cases where the offender is willing to cooperate and compensate for the damage. Namely, Member States are obliged to include in their national legislation measures that make possible the physical, ecological, and functional restoration of the damaged environment as a consequence of criminal offenses. These measures may supplement imprisonment or a fine, may have the status of alternative penalties in cases where the offender is willing to cooperate and compensate for the damage, and may be aimed at mandatory restitution in cases of serious environmental damage. Comparative experience shows that these measures may include various activities such as cleaning polluted watercourses, land reclamation, repopulation of endangered species, removal of invasive species, or restoration of ecosystems and natural habitats of plant or animal life.

A comparative analysis of the existence of such measures in certain EU states shows that the obligation to restore a damaged environment is already present as a non-criminal deterrent measure, for example, in Germany, the Netherlands, and Sweden.

In Germany, there are several relevant regulations concerning environmental protection: the Act on Regulatory Offenses (*Gesetz über Ordnungswidrigkeiten – OWiG*), the Environmental Damage Act (*Umweltschadengesetz – USchadG*), and the Criminal Code (*Strafgesetzbuch – StGB*), which prescribes special criminal offenses concerning water, air, and soil pollution. The Environmental Damage Act provides for a special obligation of the offender to restore the damaged environment (*Wiedergutmachungspflicht*),

²² For more, see: Mpunga-Biayi, P. (2025). The European Union Environmental Crime Directive 2024: The construction of an autonomous legal framework for the repression of environmental crimes within the European Union. *Environmental Law Review*, 27(2), 135–144.

which, in the context of German environmental law, represents a legal obligation of the offender to restore or repair the damage caused to the environment. The perpetrator of environmental damage may be required to remove polluting substances, restore natural habitats, repopulate endangered species, or finance long-term monitoring and remediation. This obligation may be imposed in three forms: as an administrative measure by an environmental agency; as a supplement to a criminal penalty in criminal court proceedings; or as a civil-law obligation in litigation.

The justification for the existence of such measures arises from cases of environmental accidents that demonstrate the great damage that may be caused to the environment. One of the largest environmental accidents was the case of the discharge of toxic chemicals, stored by the company Sandoz, into the Rhine River near Basel, which occurred on November 1, 1986, and caused water pollution to such an extent that a red toxic plume stretching 70 kilometers was visible for weeks, while the entire fish population in the Rhine River was destroyed, as were the plant and animal life inhabiting the banks of the Rhine. The pollution affected the course of the river flowing through four states. On this occasion, criminal proceedings were initiated against the company's responsible persons, but the question of how compensation for the damage would be provided was also raised. The claims for compensation brought by Switzerland, Germany, France, and the Netherlands ended in settlements. It was precisely cases of this kind that helped develop legislation that would enable punishment.²³

In the Netherlands, a court may order environmental remediation as a conditional measure within the framework of the Environmental Management Act (*Wet Milieubeheer*). Thus, for example, an unnamed agricultural company used prohibited pesticides and was ordered to restore the soil and carry out environmental training for employees. In another case from 2023, a Dutch judge of the District Court of North Holland prohibited a grower from spraying pesticides on lily fields, as requested by local residents.²⁴ This was the first time that a judge in an EU country had prohibited pesticide spraying on a specific crop because it posed a high health risk. The case was brought before a

²³ Drenovak-Ivanović, M., Đorđević, S., Važić, S. (2015). *Pravni instrumenti ekološke zaštite – građanskopravna i krivičnopravna zaštita*. OSCE, Belgrade; Lucas, C. (2001). The Baia Mare and Baia Borsa Accidents: Cases of Severe Transboundary Water Pollution. *Environmental Policy and Law*, 31(2), 106-111; Westra, L. (2012). *Environmental Justice and the Rights of Unborn and Future Generations*. Routledge.

²⁴ PAN Europe, Dutch judge bans spraying of pesticides on lily fields, June 19, 2023. Available at: <https://www.pan-europe.info/blog/dutch-judge-bans-spraying-pesticides-lily-fields#:~:text=Clear%20understanding%20of%20EU%20pesticide,by%20EU%20and%20national%20laws>

civil court by local residents who feared that they would contract serious neurological diseases such as Parkinson's disease or ALS, since the lily grower sprayed a cocktail of pesticides every week.²⁵ The appellate court allowed the lily producer to use only four pesticides in order to finish the growing season and prevent losses.²⁶

In Sweden, courts may impose environmental restoration measures as part of a penalty (*miljöåterställande åtgärder*); thus, in a case of illegal logging, the offender is ordered to plant new trees and finance local environmental monitoring.

The case known as “Total Gabon,” involving the French subsidiary of the oil company now called TotalEnergies, also contributed to raising awareness of supplementary measures. This company was convicted in 2022 of illegally discharging wastewater into a coastal area. Non-governmental organizations and individuals affected by extreme weather events filed a criminal complaint against the company's chief executive officer and shareholders, accusing them of contributing to deaths by exploiting fossil fuels. According to some data, TotalEnergies products have resulted in emissions of more than 14 billion tons of carbon dioxide since 1971.²⁷ In addition to a fine, the court ordered three additional measures: financing the remediation of the coastal ecosystem, building a treatment plant, and publishing the judgment in national media.

4.2. Exclusion from Public Funding

Under Articles 7 and 8 of the 2024 Directive, Member States must introduce the possibility that a natural or legal person convicted of criminal offenses against the environment be excluded from access to public funds, including subsidies, grants, public procurement contracts, and financial incentives. The aim of this measure is to sanction offenders economically, but also to prevent public money from supporting activities that endanger the environment.

²⁵ PAN Europe, Groundbreaking EU Court ruling should stop all highly toxic pesticide derogations – now, 31 January, 2023. Available at: <https://www.pan-europe.info/blog/groundbreaking-eu-court-ruling-should-stop-all-highly-toxic-pesticide-derogations-%E2%80%93-now-explains-how-EU-regulation-on-the-use-of-pesticides-should-be-applied>.

²⁶ De Rechtpraak, Teler mag 4 bestrijdingsmiddelen blijven gebruiken – motivering, July 18, 2023. Available at: <https://www.rechtspraak.nl/organisatie-en-contact/organisatie/gerechtshoven/gerechtshof-arnhem-leeuwarden/nieuws/teler-mag-vier-bestrijdingsmiddelen-blijven-gebruiken---motivering>.

²⁷ Illuminem, Climate victims file criminal case against bosses of oil firm Total, May 22, 2024. Available at: <https://illuminem.com/illuminemvoices/climate-victims-file-criminal-case-against-bosses-of-oil-firm-total>.

In France, companies convicted of environmental crime may be excluded from public tenders for a period of five years. This measure was imposed in the previously mentioned “Total Gabon” case, when, after the judgment for the unlawful discharge of wastewater, the company’s access to state subsidies for energy projects was temporarily suspended.

Such a measure also exists in Germany, where the Public Procurement Act provides that legal persons that have violated environmental regulations may be excluded from public contracts. This is precisely what happened to a local construction company that unlawfully disposed of construction waste and lost the right to participate in projects financed by a German state government.

In the Netherlands, environmental violations are treated as grounds for disqualification (*Aanbestedingswet*) under the Public Procurement Act. This is precisely what happened to an agro-industrial company that lost the right to incentives for sustainable production because it had used a prohibited chemical.

In Spain,²⁸ in Andalusia, an olive-processing company was convicted of illegally discharging wastewater into the Guadalquivir River. In addition to a fine, the regional government canceled all ongoing subsidies for agro-environmental projects, excluded the company from future rural development programs, and published the judgment on the official public procurement platform.

4.3. Withdrawal of an Operating Permit

Under Article 8 of the 2024 Directive, Member States must provide for the possibility of withdrawing from legal persons convicted of environmental crimes the permit to carry out the activity that led to the criminal offense. This measure may concern environmental permits (for example, permits for waste management, gas emissions, and the like), industrial permits (permits for production, or for the storage of hazardous substances, etc.), as well as business licenses (a license to operate in a certain sector).²⁹ The aim of this measure is to prevent the legal person from continuing the harmful activity and to strengthen the preventive effect of the penalty.

²⁸ Pereira, R. (2024). A critical evaluation of the new EU Environmental Crime Directive 2024/1203. *Eucrim*, 19(2), 158–163. Available at: <https://eucrim.eu/articles/critical-evaluation-of-the-new-eu-environmental-crime-directive/>.

²⁹ For more, see: Villari, A., Maestri, E. (2024). New EU Directive on the protection of the environment increases offenses under criminal law. Available at: <https://www.dlapiper.com/en/insights/publications/derisk-newsletter/2024/new-eu-directive-on-the-protection-of-the-environment-increases-offenses-under-criminal-law>.

In Italy, the Environmental Code (*Codice dell'Ambiente*) provides that companies that violate environmental regulations may have their operating permit withdrawn. There is such a case in which, after a conviction for the illegal storage of toxic substances, a waste-recycling company had its operating permit withdrawn for three years.

A similar possibility exists in Spain, where the Law on Environmental Protection provides for the possibility of suspending or permanently withdrawing a permit, and a farm in Andalusia that used prohibited pesticides lost its permit for agro-environmental production.

In Germany, within the framework of the Circular Economy Act (*Kreislaufwirtschaftsgesetz*), it is possible to withdraw an operating permit in the waste-management sector, which happened to a company in Saxony that illegally exported electronic waste to Africa, after which it lost its operating permit and storage license.

In Malta, in 2024,³⁰ in the context of the new rules on ship recycling, a company registered in Malta that intermediated the sending of ships to illegal beaches in Bangladesh was suspected of violating the recycling rules under Directive 2024/1203, and the Maltese maritime agency initiated proceedings to withdraw its permit for mediation in recycling. As a result, the company lost access to the EU ship-recycling market.

4.4. Publication of the Judgment

Under Article 8, paragraph 2, point (e) of the 2024 Directive, Member States must provide for the possibility that, as a sanction for criminal offenses against the environment, a judgment against a legal or natural person be published. Publication may take place on the official websites of courts or ministries, in official gazettes, in the media (newspapers, television, or the internet), or on public procurement platforms or company registers. The aim of this measure is to strengthen social condemnation, encourage transparency, and deter other entities from similar conduct. The publication of a judgment as part of the sanctions for legal persons has a significant effect, since it includes media transparency and also affects the company's rating and image.³¹

³⁰ Ganado Advocates, Directive 2024/1203: Introducing Harsher Penalties for Unregulated Ship Recycling Practices, 8 October, 2024. Available at: <https://www.lexology.com/library/detail.aspx?g=60f63f34-8118-4637-ba21-b79f88db816d>.

³¹ For more concerning legal persons, see: Transformative Legal Experts, Protection of the environment through criminal law Directive (EU) 2024/1203 of 11 April, Available at: https://www.plmj.com/xms/files/07_Guias_e_Manuais/2024/Environmental_Crime_Directive.pdf.

In France, the Environmental Code (*Code de l'environnement*) provides for the possibility of publication of a judgment as part of the penalty, and this was done, for example, when a company that unlawfully discharged wastewater into the Seine was required to publish the judgment on its website and in local newspapers.

The situation is similar in Germany, where, within environmental criminal law (Umweltstrafrecht), a court may order that a judgment be published in public media; this occurred in the case of a company that violated regulations on the storage of chemicals and had to finance publication of the judgment in a regional newspaper.

In Spain, the Law on Criminal Sanctions for Environmental Violations allows the publication of a judgment as an additional sanction, and an agro-industrial company in Catalonia that used prohibited pesticides had to publish the judgment on a public procurement platform.

In Belgium, in 2023,³² a waste-management company in Wallonia was convicted of the unlawful storage of toxic substances and, in addition to a fine, the court ordered that the judgment be published in two national daily newspapers, and that the publication had to contain the following information: the name of the company, a description of the criminal offense, the sanctions imposed, and a call for other companies to comply with environmental standards.

5. ALTERNATIVE AND ACCESSORY MEASURES FOR THE PROTECTION OF THE ENVIRONMENT IN NORTH MACEDONIA

According to available data and analyses, the share of environmental criminal offenses in the total number of criminal offenses committed in North Macedonia (RNM) is no more than 1 %.³³ The extensive nature of the special chapter of the Criminal Code of the RNM shows that there are no legislative obstacles to suppressing environmental crime, but, in practice, data can be found for only eight criminal offenses, which is insufficient and shows that the RNM belongs to the group of states that are unsuccessful in addressing environmental crime.

³² Pereira, R. (2024). A critical evaluation of the new EU Environmental Crime Directive 2024/1203. *Eucrim*, 19(2), 158–163. Available at: <https://eucrim.eu/articles/critical-evaluation-of-the-new-eu-environmental-crime-directive/>.

³³ Lažetić, G., Mujoska-Trpevska, E. (2024). Ekologija i kaznenopravni instrumenti zaštite - norma i praksa Republike Severne Makedonije. *Glasnik of the Bar Association of Vojvodina*, 96(1), 5-58.

The General Session of the Supreme Court of the RNM, held on October 8, 2024, adopted a general legal position on the right to a healthy environment and air pollution, establishing that the state, in accordance with national and international legal regulations, is obliged to ensure a healthy environment and that the failure of the competent public authorities to take measures violates the constitutionally guaranteed right to a healthy environment. Every citizen has the right, as a party to administrative proceedings, to request that the competent authorities be obliged to adopt the necessary documents, plans, strategies, and programs. The right to a healthy environment is a constitutionally guaranteed right, and every citizen has the right to information about a healthy environment, that is, about air pollution, in accordance with convention law and domestic legislation. It is especially important to emphasize that anyone may seek protection of this right, particularly in a situation where public authorities have not taken actions that they were required by law to take. Such a position was necessary because the administrative courts had taken the view that an administrative act is something adopted by an authority and that an omission cannot be included within the framework of an administrative act, so omission had become unpunishable in the context of administrative action.

After the amendments of September 2023,³⁴ the Criminal Code of the RNM contains a large number of criminal offenses within Chapter Twenty-Two – Criminal Offenses Against the Environment and Nature, taking into account that the right to a healthy environment has been elevated to the level of an elementary third-generation human right.³⁵ This chapter criminalizes various forms of commission by which the environment is endangered, air and drinking water are polluted, forests, flora, and fauna are destroyed, animals are tortured, and trade in hazardous and nuclear substances is also covered. There are also certain restorative solutions in the Criminal Code. Namely, in 2023, the possibility was introduced that, in the case of voluntary abandonment, the offender may be found guilty but punishment waived if, before the consequences occur, the offender voluntarily prevents the danger of their occurrence or eliminates the consequences. It is also prescribed that, where the court convicts an offender of a criminal offense against the environment and nature, it may order the offender to repair the damage by restoring the previous condition if possible. In this sense, with regard to the criminal offense of Pollution of the Environment and Nature, the legislature specifically provided that, when imposing a suspended sentence, the court shall order the offender to eliminate the harmful consequences of the criminal offense within a speci-

³⁴ Law Amending and Supplementing the Criminal Code, Official Gazette of the RNM, No. 188/2023 of September 7, 2023.

³⁵ Kambovski, V. (2015). *Komentar na Krivičniot zakonik na Republika Makedonija*, Vtoro izmeneto izdanie. Skopje: Matica, 878.

fied period or to undertake other prescribed measures for the protection and improvement of the environment.

With regard to the liability of legal persons, the Criminal Code prescribes certain accessory penalties that the court may impose when it assesses that the legal person has abused its activity and that there is a risk of repetition of the offense in the future. Accessory penalties include: 1) prohibition on obtaining a permit, license, concession, authorization, or other right established by a special law; 2) prohibition on participation in public tender procedures, the award of public procurement contracts, and public-private partnership contracts; 3) prohibition on establishing new legal persons; 4) prohibition on using subsidies and other favorable loans or other forms of public aid; 5) prohibition on using funds for financing political parties from the state budget; 6) withdrawal of a permit, license, concession, authorization, or other right established by a special law; 7) temporary prohibition on carrying out a specific activity; 8) permanent prohibition on carrying out a specific activity; and 9) termination of the legal person.

In case law, examples of confiscation of objects used to commit an environmental criminal offense are very rare. A case may be mentioned in which, for an extended criminal offense, where a suspended sentence of imprisonment (eight months of imprisonment suspended for one year) and a fine were imposed on a natural person, the court nevertheless decided to confiscate the cargo motor vehicle and excavator used to commit the criminal offense.³⁶ According to the provisions of the Criminal Code, such practice should be the rule, not the exception.

Under the Law on the Environment,³⁷ various types of environmental permits are issued, and all companies engaged in certain activities within nature and the environment must obtain operating permits that include pollution control and prevention. These permits are issued on the basis of the capacity and type of installation, and may be type A or type B permits.

There is also a special basis for conducting inspection supervision under the provisions of the Law on Environmental Inspection Supervision.³⁸ Namely, supervision by the environmental protection inspectorate entails supervision of entities that carry out acts or activities that cause or have the potential to cause an impact in the field of the environment, regardless of whether the entity subject to supervision has or has not obtained appropriate documents regulating the performance of the acts or activities. The entity subject to supervision may

³⁶ Judgment of the Basic Court in Negotino, K. No. 120/17, June 25, 2018.

³⁷ Official Gazette of the RNM, No. 53/05, 81/05, 24/07, 159/08, 83/09, 48/10, 124/10, 51/11, 123/12, 93/13, 187/13, 42/14, 44/15, 129/15, 192/15, 39/16, 99/18, 89/22, 171/22, 3/25, and 124/25.

³⁸ Official Gazette of the RNM, No. 99/2022.

be a domestic or foreign legal or natural person that, in carrying out an act or activity, causes or may cause a negative impact on the environment, as established by regulations in the field of the environment.

The case known as “Additive” attracted great attention in the Macedonian media. This case concerns an investigation into abuses in public procurement and money laundering in connection with the procurement of coal additives for the needs of AD Elektrani na Severna Makedonija - the REK Bitola and REK Oslomej branches, in which individuals are accused of embezzling EUR 6.5 million through fictitious tenders and money laundering. 31 natural persons and 5 legal persons have been charged. According to the Prosecution Office for Organized Crime and Corruption, the suspects organized and carried out the re-registration of legal persons in order to circumvent public procurement procedures, which enabled certain companies to obtain contracts and acquire significant material gain. They were charged with criminal association, abuse of public procurement procedure, and laundering of money and other proceeds obtained through a criminal offense. Although it is primarily prosecuted as a corruption and financial case, it has a significant environmental dimension, that is, the improper use or non-use of additives meant that emissions of harmful gases and particles were not reduced, which directly affected air quality and the health of the local population, and the environmental standards of the power company were not complied with either. In this case, the indictment was also expanded to include the then president of the State Commission for the Prevention of Corruption (who resigned from that office in August 2025), who was charged with Disclosure of an Official Secret because, in the period from May to December 2024, she made available to an unauthorized person charged in the “Additive” case data that are considered an official secret and that are connected with the “Additive” case.

5. CONCLUDING CONSIDERATIONS

Criminal law plays a very important role in protecting the environment by deterring unlawful activities, ensuring accountability, and promoting environmental restoration. Directive (EU) 2024/1203 is an example of a progressive approach to environmental governance, integrating punitive and restorative measures in order to strengthen legal frameworks. As environmental challenges continue to develop, criminal law must adapt in order to confront new threats and reinforce the commitment to sustainability. Directive (EU) 2024/1203 represents a significant step toward integrating environmental responsibility into the criminal-law system. Restoration of a destroyed environment and the prevention of future criminal offenses are no longer merely

matters of administrative sanctioning, but are becoming an essential part of criminal policy. Every state should consider introducing these standards into its legislation in order to fight environmental crime more effectively and protect its natural resources.

It is very important for legislation to introduce measures that allow for the physical, ecological, and functional restoration of the damaged environment, which cannot be achieved by imprisonment or a fine that affects the offender but has no impact on restoring the environment.

However, despite progress in criminal law in the field of the environment, several challenges remain. On the one hand, enforcement mechanisms must be strengthened in order to ensure compliance with regulations, and on the other hand, international cooperation is necessary to combat cross-border environmental criminal offenses. It is very important to use good practices from foreign legislation so that punitive measures can be balanced with restorative justice. The fact is that legislation contributes to promoting environmental sustainability, but, in order for this to be truly achieved, resources and human and institutional support for statutory solutions are needed. Taking into account the scope of environmental crime and the number of victims of this type of crime, the imposition of strict criminal sanctions is necessary, since this is the only way to deter offenders from repeating criminal offenses. Corruption and the political influence of polluters are a problem that undermines efforts to effectively combat environmental crime.

In addition to cooperation between states, effective environmental protection also requires a coordinated domestic initiative involving the government, environmental organizations, and the private sector.

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