

PRESS KIT

Fighting environmental crime and ecocide: The European Union reaches an agreement!

Marie Toussaint, Green MEP

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Biography of Marie Toussaint



A lawyer specialising in environmental law, campaigner, founder of the NGO *Notre affaire à tous* and member of the international Stop Ecocide network, Marie Toussaint was elected MEP on 26 May 2019 and is now Vice-President of the Greens/EFA Group in the European Parliament.

She sits on the Industry and Research, Environment and Legal Affairs committees, where she continues to fight for climate and environmental justice, the rights of nature, against environmental crimes and for the recognition of ecocide, as well as for justice for all: women's rights, the rights of young people and the rights of the most vulnerable.

In 2020, she founded the [International Alliance of Parliamentarians for the Recognition of Ecocide](#), bringing together parliamentarians from around the world who are working collectively to recognise and condemn the crime of ecocide.

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Press release

Agreement on environmental crime: an important victory for the condemnation of environmental crimes and the recognition of ecocide

This is an historic moment. After lengthy negotiations, the Commission, the Council and the European Parliament have agreed on a compromise that confirms key advances in the fight against environmental crime and lays the foundations for the recognition of ecocide in the EU. A victory full of hope for defenders of nature and environmental justice.

For Marie Toussaint, the Green MEP behind the proposal to include the crime of ecocide in the Directive: "The text adopted today is the culmination of months and years of work to strengthen environmental criminal law in Europe. It represents a first fundamental victory by enshrining in law a **'qualified offence'** that should make it possible to punish more severely the most serious crimes against the environment, **namely the crime of ecocide.**

This new offence is based on the definition provided by the experts of the Stop Ecocide Foundation, supported by the Ecocide Alliance that I initiated in October 2020. The text also specifies that in the case of widespread pollution, major forest fires or industrial accidents, this offence is equivalent to that of ecocide as debated at international level.

It is now essential for the Member States to propose an amendment to the Statute of the International Criminal Court, of which they represent nearly a quarter of the Member States, and to include ecocide among the crimes committed by Vladimir Putin in Ukraine that will be dealt with by the special tribunals that have been set up, as Volodymyr Zelensky has long been calling for.

The European Union is also taking a crucial step towards making environmental crimes autonomous by establishing that, in addition to breaches of the legislation cited in the directive, any conduct that damages the environment and violates substantial legal requirements must be covered by criminal law. As a result, many environmental offences that are not covered by criminal law today could be covered in the future, such as oil spills or toxic products such as PFAS spilled into the environment with complete impunity.

In addition, the new directive recognises new offences such as the marketing of products derived from imported deforestation, the discharge of polluting substances from ships and trade in mercury (see [annex](#)). Our deepest regret lies in the Council's refusal to consider the violation of GMO legislation as immediately and de facto constituting an act to be covered by criminal law. This decision reflects the place now occupied by agribusiness lobbies in the European law-making process, and the persistence of the policy of manufacturing impunity.

On the difficult issue of penalties, the Directive introduces, for the first time at European level, precise and harmonised penalties for environmental infringements. However, these penalties remain relatively low, and the Member States have succeeded in including in the text the possibility of setting fines at a fixed amount rather than in proportion to a company's turnover. This change leads to absurd situations because it does not take into account the company's financial situation. These are all issues that we must continue to push for in the future."

To conclude, Marie Toussaint emphasised: "**The text adopted could usher in a new age of environmental litigation in Europe**, because we have achieved a fundamental victory that should extend beyond our borders. In the current anti-environmental political context in Europe, this text is a point of support for all those who defend the environment in court and fight the impunity of criminal firms that all too often flout the law and are currently working to unravel environmental democracy in Europe. The text adopted is also a call for coherence: it should no longer be possible to adopt legislation allowing GMOs or re-authorising glyphosate when we collectively decide to condemn attacks on living things.

Environmental crime is exploding around the world, and is now considered to be as lucrative as drug trafficking, contributing to the destruction of living conditions on earth. With this agreement, the European Union is adopting some of the most ambitious legislation in the world. We will continue to fight to ensure that living beings are never again harmed in the name of profit."

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1/ Recognition of ecocide in Europe: history of the campaign and next steps

The result of years of work and mobilisation

2012: Foundation of the international movement [End Ecocide on Earth](#)

2015: Foundation of [Notre Affaire à Tous](#), campaigning in France for the recognition of ecocide

2017: Founding of [Stop Ecocide](#) International

2019 : European elections. Green MEPs are elected with the promise of pushing for the recognition of ecocide in the Union. At the time, the concept was completely unknown to European institutions.

May 2020: In a [report on corporate environmental liability](#), the European Parliament calls on the European Commission to revise the Directive on the protection of the environment through criminal law, and to consider, as proposed by the Greens, the recognition of ecocide.

23 October 2020: Creation of the [International Alliance of Parliamentarians for the Recognition of Ecocide](#)

Early 2021: The European Commission begins work on revising the Directive

22 June 2021: A panel of international law experts brought together by the Stop Ecocide Foundation publishes [a definition of ecocide for international law](#)

1 December 2021: [54 NGOs and trade unions and 32 Members of the European Parliament](#) call on the EU to recognise all environmental crimes and the crime of ecocide at European level.

14 December 2021: The Commission publishes its [proposal for a new European Directive](#) on environmental crime, without including the crime of ecocide.

20 March 2022: [First European day of action for recognition of ecocide](#)

October 2022: The Parliament's Environment Committee, the first to give its opinion on the revision of the Environmental Crime Directive, [calls for it to include recognition of the crime of ecocide in the EU](#). It is followed the next month by [the Development and Petitions Committees](#).

29 March 2023: After a unanimous vote in the Legal Affairs Committee, [the European Parliament's position is adopted in plenary](#). The Parliament adopts an ambitious text, both on the recognition of ecocide and on many other points.

April - November 2023: Trilogue negotiations between the European Commission, Parliament and Council

16 November 2023: An agreement is reached.

Next steps

February 2023 (tbc): The European Parliament will formally approve the trilogue agreement reached in plenary.

2023 - 2025: Member States have between 24 months to implement the Directive at national level.

The way in which the Member States translate the European text into national law will be a crucial issue over the next few years. So the work is far from over. We will continue to work with our partners (associations, groups, parliamentary members of the [Ecocide Alliance](#), etc.) in the Member States to ensure that the directive is transposed ambitiously in the Member States.

And we don't intend to stop there. The text adopted includes an ambitious review clause to allow the text to be revised if necessary in 5 years' time, which will make it possible to further improve the text and adapt it to the rapid evolution of crimes against nature.

In addition, it is now up to the Member States to bring recognition of the crime of ecocide within the Rome Statute of the International Criminal Court, and for the European Union to promote it within the special tribunals dealing with the crimes committed by Vladimir Putin in Ukraine.

2/ A stronger environmental criminal law for the whole Union

Environmental crime in Europe: some data

According to Interpol, in the space of a few decades environmental crime has become the world's fourth largest criminal sector, growing two to three times faster than the global economy¹. It is now as lucrative a business as drug trafficking. Worldwide, the looting and destruction of nature is now worth between 110 and 280 billion dollars a year².

These crimes are very often linked to organised crime, including fraud and money laundering, and are at the root of many conflicts around the world.

And Europe is no exception: in its [report on the fight against environmental crime in Europe](#), the European Environmental Bureau (EEB) cites numerous examples of environmental crimes that were still going unpunished because they were not included in the scope of the directive: illegal fishing of bluefin tuna, illegal export of toxic waste to developing countries, agro-industrial pollution in protected areas, as well as illegal hunting practices and carbon market fraud...

Key points of the new Directive

The revised Directive recognises new offences:

- the large-scale sale of illegal products
- the manufacture, sale and use of restricted chemicals and mercury
- projects in breach of environmental impact assessment rules
- ship recycling and pollution
- illegal water withdrawals
- illegal logging
- destruction of habitats
- the introduction and spread of invasive alien species
- and ozone destruction

¹ INTERPOL-UN Environment (2016). Strategic Report: Environment, Peace and Security - A Convergence of Threats. Available at www.interpol.int and www.unep.org.

² Nellemann, C.; Henriksen, R., Pravettoni, R., Stewart, D., Kotsovou, M., Schlingemann, M.A.J, Shaw, M. and Reitano, T. (Eds). 2018. World atlas of illicit flows. A RHIPTO-INTERPOL-GI Assessment. RHIPTO -Norwegian Center for Global Analyses, INTERPOL and the Global Initiative Against Transnational Organized crime.

See [Annex](#) for full details.

On autonomous environmental crimes: We have extended the definition of what is considered 'unlawful' under this Directive in order to make sure that offenders can be prosecuted even if they had an authorisation to carry out their activities, notably when the authorisation was obtained fraudulently or by corruption, extortion or coercion – but also when the authorisation is in manifest breach of a substantive legal requirement.

On intentionality: The final text maintains that certain offences can be made criminal offences even when committed unintentionally, i.e. through gross negligence. It also criminalises incitement, aiding and abetting and attempting to commit numerous offences, and emphasises that the individual liability of CEOs and Board members can be taken into account by Member States.

Penalties: For the first time at European level, the Directive introduces precise and harmonised penalties for the offences it covers, ranging from prison sentences for individuals to publication of the decision or exclusion from access to public funds for companies. However, while the Parliament and the Commission defended the introduction of penalties based solely on the percentage of a company's turnover (3 or 5% maximum depending on the type of infringement), the Member States pushed for the introduction of an alternative method aimed at determining a fixed amount for fines (24 million or 40 million maximum depending on the type of infringement). In transposing the text, Member States will therefore have a choice between one or other method for determining the amount of the fine.

On the protection of whistleblowers: the text guarantees that persons who report environmental offences, provide evidence or otherwise cooperate with the competent authorities have access to support and assistance measures. The text also provides for the possibility for Member States to allow people to report environmental offences anonymously.

On jurisdiction: the jurisdiction of Member States will be competent to hear offences committed on their territory by their nationals. On the other hand, although this was one of the priorities of the Parliament's mandate, we did not succeed in extending the obligation for Member States to establish their jurisdiction to include cases where the offence was committed outside the EU on behalf of a company established on their territory.

On the limitation period: while we did not succeed in changing the starting point of the limitation period so that it begins when the offence is discovered rather than when it is committed, we did introduce a recital that leaves this option to the Member States.

On the specialisation of professionals to better fight environmental crime: We have obtained the introduction of provisions to strengthen the specialisation of police officers and judges. However, the text does not contain a clear call to extend the powers of the European Public Prosecutor's Office to environmental crimes.

On access to justice: Unfortunately, victims affected by environmental crime will still not be able to lodge complaints directly, but we have retained the possibility of participating in criminal proceedings and considerably improved access to information on ongoing proceedings.

Transposition and revision of the text: Member States will have 24 months to transpose this new directive. The text adopted also includes an ambitious revision clause to allow the text to be revised if necessary within 5 years of its transposition. The text also asks the Commission to regularly update the list of environmental infringements in order to take account of changes in environmental legislation in a dynamic approach.

APPENDIX 1: List of offences

<i>List of offences covered by the Directive (in green, offences that have been added to the list via the revision of the text)</i>	<i>Explanations / examples</i>
(a) General pollution offences	The Dieselpgate scandal falls into this category. To date, the penalties Volkswagen and its senior executives have faced for their actions are minimal compared to the damage caused.
(b) Large-scale sale of illegal products	Substandard electronic devices, batteries, cosmetics, car parts and children's toys are a danger not only to the environment but also to human health.
(c) Manufacture, sale and use of restricted chemicals	Currently, almost 30% of alerts concerning dangerous products on the market involve risks linked to chemical products. ³ Europol claims to have withdrawn 1,203 tonnes of illegal pesticides from the market alone between January and April 2021. ⁴
(c)bis Manufacture, sale and use of Mercury	Mercury is a chemical that is highly toxic to humans and the environment. When it is released into the environment, it enters the food chain where it accumulates mainly in fish. Exposure to high levels of mercury can damage the brain, lungs, kidneys and immune system.
(d) Projects in breach of environmental impact assessment rules	Penalties for building projects without a permit or an environmental assessment should prevent their recurrence.
(e) Hazardous waste management	Of the waste produced in the EU in 2018, 101.7 million tonnes (4.4% of the total) was classified as hazardous waste. ⁵ In the European Union, illegal trafficking in non-hazardous waste generates revenues of between €1.3 and €10.3 billion , and between €1.5 and €1.8 billion for trafficking in hazardous waste ⁶ .
(f) Illegal shipments of waste	Illegal exports of waste outside the European Union account for around 25% of all waste shipments. ⁷

³ [Chemicals Strategy for Sustainability Towards a Toxic-Free Environment](#), 2020 COM (2020) 667 final

⁴ N. Foote, [A thousand tonnes of harmful counterfeit pesticides seized in EU](#), 2021

⁵ Waste Statistics 2018 [Eurostat](#)

⁶ European Environmental Bureau, [Crime and Punishment](#), Brussels, March 2020, p. 5

⁷ [European Commission proposal to improve the Waste Shipment Regulation](#)

(g) Ship recycling	<p>This category applies to the sending of old ships to recycling yards that are not on the authorised European list.</p> <p>Ships that are scrapped in yards that are not on the European list end up being dismantled in yards with poor working conditions, mainly in South Asia and India, where the activity causes toxic pollution problems.</p> <p>European shipping companies own 40% of the world fleet, but account for only 5% of the ships recycled.⁸</p>
(h) Polluting vessels	<p>The number of premature deaths in Europe caused by emissions of atmospheric pollutants from international shipping is estimated at around 49,500 in 2000 and 53,200 in 2020.⁹</p>
(I) Hazardous industrial activities	<p>Criminal law is the only tool powerful enough to dissuade people from failing to take the appropriate precautionary measures that could lead to accidents such as the Lubrizol incident in Rouen in 2019. On that day, a fire at the plant, classified as a Seveso high threshold facility, created a thick plume of black smoke reaching over 20 km.</p>
(J) Radioactive materials	<p>Category covering breaches of safety standards when handling radioactive materials.</p>
(K) Water withdrawal	<p>Illegal water abstraction can be on a massive scale, as in the Doñana wetlands in Spain, where more than 1,000 illegal wells have reduced the natural water level by 20%.¹⁰</p>
(L) Killing, possession or trafficking of protected wild fauna or flora	<p>According to the latest report by the NGO BirdLife, some 25 million birds are illegally killed each year during migration in the Mediterranean region. A further 400,000 to 2.1 million birds are killed illegally in Central and Northern Europe and the Caucasus.¹¹</p>
(M) Illegal wildlife trade	<p>It is estimated that the global illegal wildlife trade is worth between €8 and €20 billion a year¹².</p>
(N) Illegal logging	<p>Data from November 2019 reveals that more than 20 million m3 of timber are illegally logged each year in Romania, with an estimated value of at least €4 billion over the last four years. The European Environmental Bureau notes that the</p>

⁸ NGO Shipbreaking Platform, Press Release: [Platform publishes list of ships dismantled worldwide in 2020](#), 2 February 2021

⁹ Acid News, [Ship pollution causes 50,000 deaths per year](#), 2 June 2011

¹⁰ WWF Dalberg Analysis, [Saving Donana: From Danger to Prosperity](#), 2016

¹¹ BirdLife, THE KILLING 2.0 - A view to kill, 2017

¹² [EU Trade policy and the wildlife trade, 2016](#)

	companies allegedly responsible for this massive illegal deforestation do not appear to be facing any criminal prosecution to date ¹³ .
(O) Habitat destruction	The deterioration of habitats means the loss of unique ecosystems and their biodiversity.
(P) Introduction and spread of invasive alien species	Biological invasions" continue to threaten the stability of ecosystems and the societies that depend on them. According to one study, the economic cost of these invasions has increased exponentially over time, reaching €19.64 billion in 2013 and €116.24 billion in 2020 ¹⁴ .
(Q&A) Ozone destruction	This category covers the manufacture, sale, trade, use and release of ozone-depleting substances, including fluorinated gases.

¹³ European Environmental Bureau, [Crime and Punishment](#), Brussels, March 2020

¹⁴ [Economic costs of invasive alien species across Europe](#), 2021

APPENDIX 2: The qualified offence and the definition of unlawful conduct

1/ The qualified offence leading to catastrophic environmental consequences

Article 3 introduces a so-called **qualified offence** designed to criminalise serious environmental offences leading to catastrophic environmental consequences.

The offences listed in Article 3(2), **including the general pollution offence**, are therefore considered to be qualified offences where the material conditions are met ("destruction of, or widespread and substantial damage which is either irreversible or lasting").

These conditions are virtually identical to those proposed by Stop Ecocide's international panel of experts in June 2021, and which the International Alliance of Parliamentarians for the Recognition of Ecocide, initiated by Marie Toussaint, has undertaken to support. The agreement reached also specifies that the acts condemned by this Directive causing catastrophic damage and widespread pollution, industrial accidents or massive forest fires, are covered by the "qualified offence" comparable to the crime of ecocide as debated in international law.

2/ A considerable widening of the range of conduct considered 'unlawful'

Where the Directive should already have made it possible to convict autonomous crimes, as in Italy, the crux of the matter has hitherto been a restrictive interpretation of the conduct considered to be unlawful. The agreement reached provides a crucial clarification to ensure that environmental offences are finally covered by criminal law.

The text **broadens the definition of conduct considered 'unlawful'** under this directive to ensure that offenders can be prosecuted even if they had authorisation to carry out their activities, particularly when the authorisation was obtained fraudulently or by corruption, extortion or coercion - **but also when the authorisation is in manifest breach of a substantial legal requirement.** In other words, the fact of being in possession of an authorisation should not exclude the criminal liability of the authorisation holder where the authorisation is manifestly contrary to other rules and principles, such as those described in Article 191 of the Treaty on the Functioning of the European Union concerning the protection of the environment.

This extended definition of unlawful conduct would thus apply both to the list of offences in Article 3(2) and to the qualified offence defined in paragraph 2a.

This amendment to the Directive is the long-awaited step towards the recognition of autonomous offences.

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