

EP

## Proposal on Wilful Environmental Damage

The European Parliament has backed a Danish proposal that all European Union States should criminalise intentional acts causing serious environmental damage. Adoption of the relevant decision will require consensus within the European Council.

One reason behind the Danish government's initiative is known to be the lack of progress on the Convention on the Protection of the Environment Through Criminal Law, adopted by the Council of Europe in November 1998. Of the fifteen EU Member States, nine have signed the Agreement, but none have ratified.

The draft proposal would commit EU States to ratify the Convention as soon as possible, while introducing requirements for harmonisation of criminal law, including an aligned definition of "serious environmental crime."

Other obligations would cover cross-border cooperation and exchange of information together with the creation of a register of special skills of know-how on combating serious environmental crime.

However, these measures would entail a shift of power away from the Parliament and the Commission. They would be taken through an intergovernmental agreement within the EU Council of Ministers, under EU Treaty powers, which largely exclude both the European Parliament and the Executive – *i.e.*, the European Commission – from involvement in criminal justice affairs. As the format suggested for the proposal is for a "Framework Decision," this would clear the way for follow-up initiatives. The proposal that the "skills register" should be maintained by the Secretariat of the EU Council of Ministers, would represent a further shift of responsibility away from the Parliament and the Commission.

The parliamentary vote met the requirement for a formal opinion from the Parliament on the proposal. Forty

amendments suggested by the Parliament are non-binding. Many of these refer to the need for action under criminal law against companies, as well as individuals, with the option of prison sentences for company executives.

The parliamentarians also want fines to be set at a level that would make the offence "uneconomic," and they suggested that the statute of limitations should not be a bar to punishment of serious environmental crimes, "which may be detected over a long period of time."

Speaking for the Parliament's Environment Committee, Inger Schörling (Sweden) said her colleagues regarded the proposal as "a useful instrument to combat the increasing scale and frequent cross-border effects of environmental crime" in line with EU Treaty commitments to pursue balanced and sustainable development. However, those objectives also required flanking measures such as "effective legislation on environmental liability and a policy of publishing information on finalised cases," she said.

The reaction of the Commission to the draft proposal was guarded. A spokesperson welcomed in principle the idea that serious damage to the environment be criminalised, but suggested that the Council should also address the problem of widespread non-compliance and defective implementation of existing EU environmental legislation by national governments.

Johannes Blokland, a Dutch MEP, said the final version would probably bear little resemblance to the Danish government's original draft. In this respect, he referred to reports that some of the substantive Danish proposals had been stripped out of the text in the course of preliminary examination by working groups within the Council. He added that, "if the Council ends up with a much weakened draft, it would be better to have no decision at all." (MJ)

