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Approval of the final text of the Criminal Code

In force as of 29-5-2020

**((TITLE VI-BIS
CRIMES AGAINST THE ENVIRONMENT))**

Article 452-bis

((*Environmental pollution*).))

((Any person who unlawfully causes a significant and measurable deterioration or impairment:

- 1) of waters or air, or of large or significant portions of the soil or subsoil,*
- 2) of an ecosystem, of biodiversity, including agricultural biodiversity, of plants or animals,*

shall be punished by a term of imprisonment of two to six years and a fine of € 10,000 to € 100,000.

The penalty shall be increased where pollution affects a natural protected area or an area under special protection because of its landscape, environment, history, or its artistic, architectural or archaeological value, or where it harms protected animal or plant species.))

Article 452-ter.

((*Death or bodily injury resulting from environmental pollution offences*).))

((If any of the offences referred to in Article 452-bis causes a bodily injury as an unintentional consequence of the offender's conduct, the penalty shall be a term of imprisonment of two years and six months to seven years except for the cases where the illness has a duration not exceeding twenty days; if it causes a serious injury, the penalty shall be a term of imprisonment of three to eight years; if it causes a very serious injury, the sentence shall be a term of imprisonment of four to nine years; if it causes death, the sentence shall be a term of imprisonment of five to ten years.

In the event of death of several persons or bodily injuries caused to several persons, or of the death of one or more persons and bodily injuries to one or more persons, the punishment that should be applied for the most serious case, increased by up to threefold, shall be imposed; however, the term of imprisonment may not exceed twenty years.))

Article 452-quater

((*Environmental disaster*).))

((Apart from the cases set out in Article 434, any person who unlawfully causes an environmental disaster shall be punished by a term of imprisonment of five to fifteen years. An environmental disaster may consist in either:

- 1) the irreversible change of the balance of an ecosystem;*
- 2) the change of the balance of an ecosystem which would be particularly expensive to remedy and could only be remedied by exceptional measures;*
- 3) harm to public safety which is particularly significant due to the extent of the damage or its harmful effects, or on account of the number of persons who suffered injuries or were exposed to danger.*

The penalty shall be increased when the disaster affects a natural protected area or an area under special protection because of its landscape, environment, history, or its artistic, architectural or archaeological value, or where it harms protected animal or plant species.))

Article 452-quinquies

(((Unintentional offences against the environment).))

((If any of the offences referred to in Articles 452-bis and 452-quater is committed by negligence, the penalties indicated in those articles shall be reduced by one third up to two thirds.

If the commission of the offences referred to in the previous paragraph gives rise to a danger of environmental pollution or environmental disaster, the penalties shall be further decreased by one third.))

Article 452-sexies

(((Trafficking in, and dumping of, highly radioactive material).))

((Unless the conduct constitutes a more serious offence, any person who unlawfully assigns, purchases, receives, transports, imports, exports, procures for others, holds, transfers, dumps or illicitly disposes of highly radioactive material, shall be punished by a term of imprisonment of two to six years and by a fine of € 10,000 to € 50,000.

The punishment prescribed in the first paragraph shall be increased if the offence gives rise to a danger of damage or impairment:

- 1) of waters or air, or of large or significant portions of the soil or subsoil.*
- 2) Of an ecosystem, of biodiversity, including agricultural biodiversity, of plants or animals.*

If the conduct poses a danger to people's life or personal safety, the penalty shall be increased by up to one half.))

Article 452-septies

(((Hindering supervision).))

((Unless the conduct constitutes a more serious offence, any person who - by denying access, creating obstacles or artificially changing the condition of the sites concerned - hinders, hampers or evades supervision and control related to the environment and to occupational health and safety, or undermines the outcome thereof, shall be punished by a term of imprisonment of six months to three years.))

Article 452-octies
(((Aggravating circumstances).))

((Where an association under Article 416 is aimed, exclusively or concurringly, at committing any of the offences referred to in this Title, the punishment prescribed in the aforementioned Article 416 shall be increased.

Where an association under Article 416-bis is aimed at committing any of the offences referred to in this Title or at taking over the management or, in any case, the control of economic activities, concessions, authorisations, public contracts or services in environmental matters, the punishment prescribed in the aforementioned Article 416-bis shall be increased.

The punishment referred to in the first and second paragraphs shall be increased by one third up to one half if public officials or persons in charge of a public service who perform their functions or provide services in environmental matters participate in the association.))

Article 452-novies
(((Environment-related aggravating circumstance).))

((Where an act which already amounts to an offence is committed to perpetrate one or more offences either contemplated in this Title, Legislative Decree of 3 April 2006, no. 152, or any other law provision introduced to protect the environment, or where the commission of the act constitutes a violation of one or more law provisions set forth in the aforementioned Legislative Decree no.152 of 2006 or any other piece of legislation for the protection of the environment, the relevant punishment shall be increased by one third to one half in the former case, and by one third in the latter case. The offence may be prosecuted ex officio in any case.))

Art. 452-decies.
(((Active repentance).))

((The punishment prescribed for the offences set forth in this Title, for criminal association offences under Article 416 as aggravated under Article 452-octies, and for the offence under Article 260 of Legislative Decree of 3 April 2006, no. 152, and subsequent amendments, shall be decreased by one half up to two thirds for any person who endeavours to prevent the criminal activity from causing further consequences, or before a first-instance trial is declared open, effectively provides for the safety and remediation of the sites and, where practicable, the restoration of such sites to

the baseline condition; punishment shall be decreased by one third up to one half for any person who effectively helps the police or the judicial authorities to reconstruct the events, find the perpetrators or remove significant resources for the commission of the offences.

Where the court, upon request by a defendant, before a first-instance trial is declared open, orders the suspension of proceedings for an appropriate period of time, in any case not exceeding two years, which may be extended for no more than one additional year, to enable the ongoing activities referred to in the previous paragraph to be carried out, the limitation period shall be suspended.))

Article 452-undecies

(((Confiscation).))

((In case of a conviction or application of sentence upon request by the parties to the proceedings under Article 444 of the Code of Criminal Procedure, the offences referred to in Articles 452-bis, 452-quater, 452-sexies, 452-septies and 452-octies of this Code shall always attract confiscation of the things constituting the product or profit of the offence or which were used to commit the offence, unless they belong to persons who were not involved in the offence.

Whenever, following a conviction for any of the offences referred to in this Title, confiscation of assets has been ordered but its execution is not possible, the court shall identify assets for a corresponding value held by the convicted person, including indirectly or through an intermediary, and it shall order confiscation thereof.

The assets confiscated pursuant to the previous paragraphs or any possible proceeds thereof shall be made available to the competent public authority and they shall only be used for the remediation of the sites.

Confiscation shall not apply when a defendant has effectively provided for the safety and, where necessary, for the remediation and restoration of such sites to the baseline condition.))

Article 452-duodecies.

(((Restoration of sites to the baseline condition).))

((When delivering a judgment of conviction or imposing sentence upon request by the parties to the proceedings under Article 444 of the Code of Criminal Procedure for any of the offences referred to in this Title, the court shall order the recovery, and where technically possible, the restoration of the sites to the baseline condition, and shall impose implementation thereof on the convicted person and the entities referred to in Article 197 of this Code.

The sites referred to in the previous paragraph shall be restored to the baseline condition pursuant to the provisions of Title II, Part 6 of Legislative Decree of 3 April 2006, no. 152, governing restoration of the environment.))

Article 452-terdecies.

((Failure to carry out environmental remediation).))

((Unless the conduct constitutes a more serious offence, any person who fails to provide for environmental remediation, restoration or recovery of the baseline condition of a site despite being obliged to do so by law, by an order issued by a court or a public authority, shall be punished by a term of imprisonment of one to four years and by a fine of € 20,000 to € 80,000)).

Art. 452-quaterdecies.

((Activities organised for purposes of unlawful trafficking in wastes).))

((Any person who, for the purposes of making an unjust profit, by several operations and continuous organised means and activities, transfers, receives, transports, exports, imports, or in any case unlawfully manages large amounts of wastes, shall be punished by a term of imprisonment of one to six years.

Where highly radioactive wastes are involved, a term of imprisonment of three to eight years shall be imposed.

A conviction shall imply the imposition of collateral penalties under Articles 28, 30, 32-bis and 32-ter, subject to the restriction under Article 33.

When delivering a judgment of conviction or imposing sentence pursuant to Article 444 of the Code of Criminal Procedure, the court shall order the restoration of the state of the environment and may make a decision to grant conditional suspension of sentence dependent on the elimination of damage or danger to the environment.

The confiscation of the things that were used to the commit the crime or that constitute the product or profit thereof shall always be ordered, unless they are owned by persons who were not involved in the crime. If confiscation is not possible, the court shall identify assets for a corresponding value held by the convicted person, including indirectly or through an intermediary, and it shall order confiscation thereof.))