

DECISION OF THE EEA JOINT COMMITTEE**No 191/2015****of 10 July 2015****amending Annex XX (Environment) to the EEA Agreement [2017/31]**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Directive 2008/99/EC of the European Parliament and the Council of 19 November 2008 on the protection of the environment through criminal law ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Directive 2008/99/EC covers acts that are incorporated into the Agreement as well as acts that are not incorporated into the EEA Agreement.
- (3) Annex XX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following is inserted after point 11 (Directive 2009/128/EC of the European Parliament and of the Council) of Annex XX to the EEA Agreement:

- 1m. **32008 L 0099**: 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 (OJ L 328, 6.12.2008, p. 28).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

Since certain Community acts listed in Directive 2008/99/EC are not incorporated into the EEA Agreement, all references to such acts, to definitions in these acts and to offences concerning conduct falling within the scope of these acts contained in Directive 2008/99/EC shall not apply to the EFTA States. These acts currently are:

- (i) Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water,
- (ii) Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds,
- (iii) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora,
- (iv) Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation,
- (v) Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein,

⁽¹⁾ OJ L 328, 6.12.2008, p. 28.

- (vi) Council Directive 2003/122/Euratom of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources,
- (vii) Directive 2006/7/EC of the European Parliament and the Council of 15 February 2006 concerning the management of bathing water quality,
- (viii) Directive 2006/44/EC of the European Parliament and of the Council of 6 September 2006 on the quality of fresh waters needing protection or improvement in order to support fish life,
- (ix) Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel.'

Article 2

The text of Directive 2008/99/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 11 July 2015, provided that all the notifications under Article 103(1) of the EEA Agreement have been made (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 10 July 2015.

For the EEA Joint Committee
The President
Atle LEIKVOLL

(*) Constitutional requirements indicated.

ANNEX

JOINT DECLARATION BY THE CONTRACTING PARTIES**to Decision of the EEA Joint Committee No 191/2015 of 10 July 2015 incorporating Directive 2008/99/EC of the European Parliament and of the Council into the EEA Agreement**

Directive 2008/99/EC of the European Parliament and of the Council is based on Article 175 TEC (now Article 192 TFEU) and aims at the effective protection of the environment. This is to be accomplished through the use of legal means provided for by criminal law. The Contracting Parties have agreed that this Directive shall be incorporated into the EEA Agreement. The Contracting Parties agree that the incorporation of Directive 2008/99/EC is without prejudice to the scope of the EEA Agreement, and take note that, following the entry into force of the TFEU, the EU legislator may adopt minimum rules pursuant to Article 83(2) TFEU with regard to the definition of criminal offences and sanctions in a particular EU policy area if this 'proves essential to ensure effective implementation of a Union policy in an area which has been subject to harmonisation measures'. Future legislative measures adopted under Article 83(2) will not be EEA relevant.'
