Ship-source pollution and introduction of penalties, including criminal penalties, for pollution offences

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The Committee on Transport and Tourism adopted the report drawn up by Luis de GRANDES PASCUAL (EPP-ED, ES) amending, under the first reading of the codecision procedure, the proposal for a directive of the European Parliament and of the Council amending Directive 2005/35/EC on ship source pollution and on the introduction of penalties for infringements.

The main amendments are as follows:

Infringements and criminal offences: an amendment reinstates a concept adopted in Framework Decision 2005/667/JHA (now annulled) that distinguished between criminal penalties and penalties of a different type. It stipulates that the Member States may class as administrative infringements illicit cases of minor ship-source discharges of polluting substances into any of the areas referred to in the directive where the act committed does not cause a deterioration in the quality of the water. Discharges of this type, under the terms of this Directive, shall be termed "minor" cases.

Moreover, behaviour involving **repeated unlawful minor ship-source discharges** of polluting substances shall be regarded as a criminal offence if the discharges have been made with intent, recklessly, or are due to serious negligence. The penalty shall, in any event, reflect the total number of minor discharges concerned.

MEPs also clarify that inciting or aiding and abetting a criminal offence can only occur where there is intent to deceive or act and not when the criminal offence occurs through recklessness or serious negligence.

Exceptions: the inclusion in the new directive of possible criminal offences previously governed by annulled Framework Decision 2005/667/JHA requires that the amended directive clearly states that the exceptions refer both to criminal offences and to simple infringements.

Transposition of the directive: MEPs propose to set the time needed for the directive's implementation to 12 months (instead of 6 months) following the date of its entry into force.

Accompanying measures: in accordance with its tasks as defined in Regulation (EC) No 1406/2002, the European Maritime Safety Agency may also entrust the monitoring and surveillance activities to an interdisciplinary monitoring laboratory (operating in, among other areas, the scientific, legal, and health fields) to be set up within the European Maritime Safety Agency, which shall process the relevant data and analyse their implications, not least in biological, chemical, and physical terms, for the health of the endangered marine ecosystem.