

Ship-source pollution and introduction of penalties

2023/0171(COD) - 01/06/2023 - Legislative proposal

PURPOSE: to amend Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2005/35/EC on ship-source pollution (SSP Directive) deals with penalties for illegal discharges of oil and noxious liquid substances from ships to the sea. Illegal, means anything that does not meet MARPOL standards (MARPOL - Convention for the Prevention of Pollution from Ships).

The Directive successfully contributed to the incorporation of the international rules for ship-source pollution into EU law and improved the detection of possible pollution from ships. In particular, the Directive was the impetus behind the creation of the CleanSeaNet service - an EU-wide oil monitoring system using satellite surveillance hosted by the European Maritime Safety Agency (EMSA). However, offenders discharging polluting substances illegally are **not always identified**, and therefore rarely penalised.

A number of issues have been identified as problematic: (i) the current scope of the Directive does not cover all relevant polluting substances of the international regime e.g. garbage or sewage discharges into sea; (ii) information exchange and/or expertise to effectively detect, verify and penalise pollution from ships are inconsistent across the EU and generally insufficient; (iii) there is an unbalanced dissuasive effect of the penalties currently applied across EU for ship-source pollution; (iv) the current reporting by Member States is incomplete and results in a lack of information on ship-source pollution and related penalties across the EU over time.

There is clear Union relevance of improving the Directive to address this cross-border problem. This initiative is part of a package to modernise EU rules on maritime safety.

CONTENT: the proposed directive aims to prevent any type of illegal discharges into European seas, which is essential to lower the environmental impact of maritime transport activities and preserve the marine ecosystem. Achieving this requires that illegal discharges are detected, infringements are pursued and perpetrators of illegal activities are sanctioned.

To achieve this, the proposal:

- aligns EU rules with international regulations and extends the scope to cover a wider range of polluting substances. In addition to illegal discharges of oil and noxious liquid substances, which were covered under existing rules, the Commission proposes to also include discharges of harmful substances carried in packaged form, sewage, garbage, as well as discharge waters and residues from Exhaust Gas Cleaning Systems (scrubbers).
- optimises CleanSeaNet - EMSA's surveillance and information sharing database and provides for information sharing and follow up obligations by national authorities responsible for the detection and

verification of potential pollution. The enhanced system will facilitate timely enforcement as well as cooperation between Member States in case of cross-border ship-source pollution incidents;

- establishes a strengthened legal framework for **penalties** and their application, enabling national authorities to take adequate action in case of illegal discharge and impose penalties, such as fines. The proposal puts forward minimum criteria for the effective application of administrative penalties, such as the gravity of the discharge, its impact on the environment or the financial strength of the responsible entity.
- ensures simplification and effective reporting on ship-source pollution incidents and follow-up activities.

Budgetary implications

The current net costs of the proposal amount to EUR 125.8-134.7 million over 2025-2050.