

# Ship-source pollution and introduction of penalties

2023/0171(COD) - 17/11/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Marian-Jean MARINESCU (EPP, RO) on 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, including criminal penalties, for pollution offences.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

## *Exceptions*

A discharge of polluting substances into any of the areas referred to in the directive should not be regarded as an infringement if the discharge was immediately reported to the authorities after its occurrence. Moreover, Members stated that the company, the master, or the crew should provide documentary evidence or logs detailing the precautions taken to prevent or minimise the discharge upon request by relevant authorities.

## *Easy access to the full and updated texts of International Maritime Organization (IMO) conventions*

Members aim to ensure that all interested parties have easy access to the full and updated texts of International Maritime Organization (IMO) conventions. If by one year from the date of entry into force of this amending Directive the IMO has not published the full texts of all its conventions, including Marpol 73/78 and its related annexes, on its website, accessible to users free of charge, the Commission should adopt, within 3 months, a delegated act amending this Directive, by adding a new Annex with the full text of Marpol 73/78 and those of its annexes referred to in this Directive.

## *Penalties*

In the case that it is proven that the master or, if not acting under the responsibility of the master, the crew was responsible for the commission of the relevant infringement, Member States should ensure that penalties are imposed to such persons in accordance with the provisions of this Directive. In the event, however, that the master or crew responsible for the commission of the relevant infringement can no longer be found or cannot afford to pay the full amount of the penalty, the **company should remain responsible as a last resort, for the payment of the full amount or of the remainder of the penalty.**

The report proposed that Member States should ensure that, when determining and applying the type and level of administrative penalty to a natural or legal person found by competent authorities to be responsible for an infringement, the competent authorities take into account all relevant circumstances of the infringement, including: the extent of the damage caused by the discharge to marine life, including fish populations, and its subsequent impact on fishing activities and coastal communities.

Member States should **not set or apply any ‘maximum administrative penalties’ or ‘minimum administrative penalties’** for infringements under this Directive that would be too low to ensure the deterrent nature, proportionality and effectiveness of these penalties.

## *Verifications*

To clarify and increase the level of verification, Members propose that Member States should thoroughly analyse 100% of the alerts that they receive from CleanSeaNet every year and that they carry out on the spot verifications of at least 50% of those alerts (as opposed to Commission's proposed 10%).

To avoid clearly unnecessary on-the spot-verifications, manifest false alarms, if revealed during the analysis of the imagery, can be subtracted from this objective. Responsible authorities should conduct verifications on the spot as quickly as possible, to prevent an illegal discharge from dispersing and therefore becoming undetectable by the time of arrival on the spot.

### ***Reporting***

In order to be able to tackle the problem of ocean container pollution more effectively at European level, the new reporting obligations to IMO under chapter 5 of the International Convention for the Safety of Life at Sea (SOLAS) should not remain limited to IMO level. Member States should also report on this issue to the European Commission and EMSA on a yearly basis.