

# Ship-source pollution and introduction of penalties

2023/0171(COD) - 10/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 583 votes to 27, with 12 abstentions, a legislative resolution 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 position adopted by the European Parliament at first reading under the ordinary legislative procedure is as follows:

## ***Purpose***

The purpose of the proposed Directive is to incorporate into Union law international standards on pollution from ships and to ensure that **any company or other legal or natural person liable** for illegal discharges of polluting substances is subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine environment from pollution from ships.

Each Member State should take all necessary measures to ensure that any company, or other legal or natural person having committed an infringement is held liable.

## ***Enforcement measures in respect of ships in a port of a Member State***

If irregularities or information give rise to a suspicion that a ship which is voluntarily within a port or at an off-shore terminal of a Member State has been engaged in or is engaging in a discharge of polluting substances into any of the areas referred to in the Directive, that Member State should ensure that an **appropriate inspection** or other appropriate action, taking into account the relevant guidelines adopted by the IMO, is undertaken in accordance with its national law. If so far as the inspection reveals facts that could indicate an infringement, the Member State concerned should apply the provisions of this Directive. The competent authorities of that Member State and of the flag State should be informed.

## ***Administrative penalties***

Member States should ensure that administrative penalties introduced in transposition of this Directive include fines which are imposed on the company held liable for the infringement.

Where the legal system of the Member State does not provide for administrative penalties, it should be possible to apply this measure in such a manner that the penalties, including the fines, are initiated by the competent authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by competent authorities. In any event, the penalties imposed should be **effective, proportionate and dissuasive**.

## ***Exchange of information and experience***

The Member States and the Commission, with the assistance of the European Maritime Safety Agency (EMSA), should cooperate in the exchange of information.

In order to ensure the effective monitoring of this Directive's implementation by all Member States, a **digital analysis of all high-confidence alerts** should be ensured by each Member State within the first three years from the transposition of this Directive. Within that timeframe, all Member States should also indicate whether or not they verify those high-confidence alerts sent by CleanSeaNet every year, striving to verify at least 25 % of those high-confidence alerts. In that context, verification means any follow-up actions by competent authorities of an alert sent by CleanSeaNet to determine whether the alert in question corresponds to an illegal discharge. If a Member State does not verify an alert, it should indicate the reasons for not doing so.

Information on major ship-source pollution incidents is disseminated to the fishing and coastal communities concerned in a timely manner.

The Commission should provide for the organisation of **exchange of experiences and best practices** between Member States' national competent authorities on how to ensure an effective determination and application of penalties. On the basis of that exchange of information, the Commission may propose guidelines, including on types of polluting substances and sensitive areas of concern.

#### *Publication of information*

Based on information reported by Member States, the Commission should make publicly available a regularly updated Union-wide overview on the implementation and enforcement of this Directive, upon the conclusion of the administrative and legal proceedings, when applicable. To the extent that information relating to penalties includes personal data or commercially sensitive information, such information should be anonymised.

As part of the evaluation and review of this Directive, the Commission should assess the verification rates of Member States and should envisage to propose, if appropriate, verification rates higher than foreseen in this Directive, based on technological developments and the particular circumstances and capabilities of Member States.