

# Ship-source pollution and introduction of penalties for infringements

2003/0037(COD) - 05/03/2003 - Legislative proposal

**PURPOSE** : to present a proposal which will lead to the imposition of criminal sanctions on those responsible for pollution by ship. **CONTENT** : the proposed Directive establishes that marine pollution by ships is a criminal offence. Sanctions will be applicable to any person - including the master, the owner, the operator and the charterer of a ship and to the classification society - who has been found to have caused or contributed to illegal pollution intentionally or by means of gross negligence. The penalties may, in the most serious cases, include jail sentences. The proposal responds to calls by the European Council in Copenhagen on 13 December 2002 for further specific measures relating to liability and corresponding sanctions and by the Transport Council of Ministers on 6 December 2002 and the Justice and Home Affairs Council on 19 December for strengthened protection of the environment and criminal sanctions for grossly negligent behaviour leading to marine pollution by ships. The proposal is a further effort by the Commission to try to stop the thousands of deliberate discharges of waste and cargo residues from ships at sea around Europe. The Directive proposed provides detailed rules for the discharge of polluting substances, including oil and chemicals, and makes any violation of those rules illegal in EU waters. In addition, it prohibits pollution on the high seas, irrespective of the flag of the ship. The proposal consists of two distinct, but equally important measures: 1) it incorporates the applicable international discharge rules for ship-source pollution into Community law and regulates the enforcement of these rules in detail. This part of the proposal includes certain important new features, notably the inclusion of violations that have taken place in the high seas (sea areas beyond the jurisdiction of any State); 2) establishes that violations of the discharge rules shall be criminal offences and provides guidance on the nature of the penalties to be awarded. Both these measures fill important legal voids, as ship-source discharges are not currently sufficiently regulated by Community law, and as existing maritime law does not provide sufficient dissuasion from engaging in dangerous practices by those involved in the carriage of polluting substances by sea. Both measures go beyond the problem of oil pollution, as they address pollution offences more generally, including pollution by chemical substances.