Basic information

2023/0171(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Ship-source pollution and introduction of penalties Amending Directive 2005/35 2003/0037(COD) **Subject** 3.20.03.01 Maritime safety 3.20.15.06 Maritime or inland transport agreements and cooperation 3.70.05 Marine and coastal pollution, pollution from ships, oil pollution 3.70.16 Law and environment, liability	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	MARINESCU Marian-Jean (EPP)	07/07/2023
	Shadow rapporteur CERDAS Sara (S&D) RASMUSSEN Bergur Løkke (Renew) PAULUS Jutta (Greens/EFA) FIDANZA Carlo (ECR) CHAIBI Leila (The Left)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
PECH Fisheries	MONTEIRO DE AGUIAR Cláudia (EPP)	12/09/2023
JURI Legal Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs		

		The committee decided not to give an opinion.

Council of the European Union	Council configuration	Meetings	Date
	Agriculture and Fisheries	4057	2024-11-18

European Commission	Commission DG	Commissioner
	Mobility and Transport	VĂLEAN Adina

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary
01/06/2023	Legislative proposal published	COM(2023)0273	Summary
10/07/2023	Committee referral announced in Parliament, 1st reading		
16/11/2023	Vote in committee, 1st reading		
16/11/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
17/11/2023	Committee report tabled for plenary, 1st reading	A9-0365/2023	Summary
20/11/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
22/11/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
04/03/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2024)001231 PE759.758	
10/04/2024	Decision by Parliament, 1st reading	T9-0202/2024	Summary
10/04/2024	Results of vote in Parliament		
18/11/2024	Act adopted by Council after Parliament's 1st reading		
27/11/2024	Final act signed		
16/12/2024	Final act published in Official Journal		

Technical information

Procedure reference	2023/0171(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation

Legislative instrument	Directive
Amendments and repeals	Amending Directive 2005/35 2003/0037(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 100-p2
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/9/12155

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE752.749	04/09/2023	
Amendments tabled in committee		PE752.942	25/09/2023	
Committee opinion	PECH	PE753.445	15/11/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0365/2023	17/11/2023	Summary
Text agreed during interinstitutional negotiations		PE759.758	28/02/2024	
Text adopted by Parliament, 1st reading/single reading		T9-0202/2024	10/04/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)001231	28/02/2024	
Draft final act	00091/2024/LEX	27/11/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2023)0273	01/06/2023	Summary
Document attached to the procedure	SEC(2023)0209	01/06/2023	
Document attached to the procedure	SWD(2023)0159	01/06/2023	
Document attached to the procedure	SWD(2023)0164	01/06/2023	
Commission response to text adopted in plenary	SP(2024)377	29/07/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary

Contribution	IT_CHAMBER	COM(2023)0273	05/10/2023	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES2154/2023	20/09/2023	

Additional information

Source	Document	Date
European Parliament	Briefing	13/12/2023
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency

Name	Role	Committee	Date	Interest representatives
CHAIBI Leila	Shadow rapporteur	TRAN	24/10/2023	Fonds international pour la protection des animaux (IFAW)
CERDAS Sara	Shadow rapporteur	TRAN	21/09/2023	SSPD - ECSA
RASMUSSEN Bergur Løkke	Shadow rapporteur	TRAN	18/09/2023	European Community Shipowners' Associations
CERDAS Sara	Shadow rapporteur	TRAN	15/09/2023	Costa Cruises

Final act

Directive 2024/3101
OJ OJ L 16.12.2024 Summary

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.

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.

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.

Ship-source pollution and introduction of penalties

2023/0171(COD) - 16/12/2024 - Final act

PURPOSE: to incorporate into Union law international standards on illegal discharges from ships at sea and to ensure that those responsible for such discharges are subject to dissuasive, effective and proportionate sanctions.

LEGISLATIVE ACT: Directive (EU) 2024/3101 of the European Parliament and of the Council amending Directive 2005/35/EC as regards ship-source pollution and on the introduction of administrative penalties for infringements.

CONTENT: this directive is part of a package of four new pieces of legislation on maritime safety that aim to support clean, safer and modern maritime transport in the EU. These acts amend the relevant Directives on:

- the investigation of accidents in the maritime transport sector (2023/0164(COD));

- **ship-source pollution**;

- compliance with flag state requirements (2023/0172(COD)), and

- port state control (2023/0165(COD)).

The revised ‘package’ achieves a careful balance between, on the one hand, the need to ensure a high quality of shipping and, on the other, the need to safeguard the competitiveness of the European shipping sector, while also maintaining reasonable costs for operators and Member States' administrations.

The revised ship-source pollution Directive aims to **incorporate international standards on ship-source pollution** into Union law and to ensure that those responsible for illegal discharges of polluting substances are subject to dissuasive, effective, and proportionate penalties to improve maritime safety and better protect the marine environment from pollution by ships.

The Directive does not prevent Member States from adopting stricter measures.

Scope

The Directive extends the scope of the current directive (Directive 2005/35/EC) to cover illegal discharges of harmful substances in packaged form, sewage, waste and discharged waters and residues from exhaust gas cleaning systems. Moreover, it ensures clarity and coherence with international rules and procedures, particularly those of the international convention for the prevention of pollution from ships (MARPOL), in the interest of protection of the marine environment.

Enforcement measures with respect to ships within 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, that Member State will 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.

Administrative penalties

The Directive establishes a **strengthened legal framework** for administrative penalties and their effective application, enabling national authorities to ensure a dissuasive and consistent imposition of sanctions to ship-source pollution incidents in all European seas.

When determining and applying the type and level of administrative penalty for a company or other legal or natural person found by competent authorities to be liable, the competent authorities take into account **all relevant circumstances of the infringement**, in particular:

- the nature, gravity and the duration of the discharge;

- the degree of culpability or fault of the responsible person;

- the damage caused by the discharge to the environment or human health, including, where relevant, its impact on fishing, tourism and coastal communities;

- the financial capacity of the company;

- the economic benefits generated;

- measures taken by the company or other legal or natural person liable in order to prevent the discharge or mitigate its impact;

- the level of cooperation of the company with the competent authority.

Exchange of information and experience

Member States and the Commission, with the assistance of the European Maritime Safety Agency (EMSA), will cooperate in the exchange of information, building on the Union Maritime Information Exchange System referred to in Directive 2002/59/EC of the European Parliament and of the Council (SafeSeaNet), with a view to improving the information needed for the effective implementation of the Directive.

The Commission will establish an **electronic reporting tool**, for the purposes of collection and exchange of information between Member States and the Commission on the implementation of the enforcement system provided for by this Directive. Based on information reported by Member States, the Commission will make publicly available a regularly updated Union-wide overview on the implementation and enforcement of this Directive.

Training

The Commission will, with the assistance of EMSA and in cooperation with Member States, facilitate the development of Member States' capabilities by providing, as appropriate, training to the authorities responsible for the detection and verification of infringements under the scope of this Directive and the enforcement of penalties or any other measures arising from such infringements.

ENTRY INTO FORCE: 5.1.2025.

TRANSPOSITION: no later than 6.7.2027.