

VOTING LIST

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

Rapporteur: Marian-Jean Marinescu

| Concerned text | AM | Tabled by | Remarks | Rapp | Vote |
|--|-------------|-------------------------------------|---|------|------|
| Article 1, Article 2, Article 10a, Recital 4, Recital 6, Recital 15, Recital 15a (new), Recital 21 | CA 1 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, 48, 49, 50, 51, 52, PECH 17, 53, 54, 55, 56, 57, 58, 59, PECH 18, 60, 61, 63, 65, 67, 93, 125, 94, PECH 37, 95, PECH 39, 104, 71, 72, 122, PECH 35, 123, PECH 2, PECH 3, 12, PECH 5, 13, 14, 16, PECH 6, 28, 29, PECH 14, 30, 43, 42, PECH 16, 44, 45, 46 and 47 fall If adopted go to ► CA 1A | + | |
| Directive 2005/35 – Title | 48 | Chaibi | Falls if CA 1 adopted <i>Deletion</i> | | |
| | 49 | Karleskind | Falls if CA 1 or 48 adopted | | |
| | 50 | Paulus | Falls if CA 1 or 48 adopted | | |
| Directive 2005/35 – Article 1 – paragraph 1 | 51 | Chaibi | Falls if CA 1 adopted <i>Deletion</i> | | |
| | 52 | Paulus | Falls if CA 1 or 51 adopted | | |
| | PECH 17 | | Falls if CA 1 or 51 adopted | | |
| | 53 | Karleskind | Falls if CA 1 or 51 adopted | | |
| Directive 2005/35 – Article 1 – paragraph 1a (new) | 54 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 1 – paragraph 2 | 55 | Paulus | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 2 – paragraph 2 | 56 | Paulus | Falls if CA 1 adopted | | |
| | 57 | Cerdas | Falls if CA 1 or 56 adopted | | |
| | 58 | Chaibi | Falls if CA 1, 56 or 57 adopted | | |

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|--|---------|---|---|--|--|
| | 59 | Karleskind | Falls if CA 1, 56, 57 or 58 adopted | | |
| | PECH 18 | | Falls if CA 1 or 59 adopted | | |
| Directive 2005/35 – Article 2 – paragraph 2a (new) | 60 | Karleskind | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 2 – paragraph 3 | 61 | Fidanza | Fall if CA 1 adopted Identical | | |
| | 62 | Rasmussen, Karleskind, Nagtegaal | | | |
| Directive 2005/35 – Article 2 – paragraph 3 – point a | 63 | Fidanza | Fall if CA 1 adopted Identical <i>Deletion</i> | | |
| | 64 | Rasmussen, Karleskind, Nagtegaal | | | |
| Directive 2005/35 – Article 2 – paragraph 3a (new) | 65 | Fidanza | Fall if CA 1 adopted Deemed adopted if 63 adopted AND CA 1 NOT adopted Identical | | |
| | 66 | Rasmussen, Karleskind, Nagtegaal, Fidanza | | | |
| Directive 2005/35 – Article 3 | 67 | Paulus | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 10a – paragraph 1 | 93 | Monteiro de Aguiar | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 10a – paragraph 2 – point ca (new) | 125 | Furore, Danzi | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 10a – paragraph 2a (new) | 94 | Paulus | Falls if CA 1 adopted | | |
| | PECH 37 | | Falls if CA 1 adopted | | |
| Directive 2005/35/EC – Article 10a – paragraph 3 | 95 | Monteiro de Aguiar | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 10c – paragraph 1 | PECH 39 | | Falls if CA 1 adopted | | |

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| Directive 2005/35 – Article 10e (new) | 104 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 4 – paragraph 1 – point fa (new) | 71 | Paulus | Falls if CA 1 adopted | | |
| Directive 2005/35 – Article 4 – paragraph 1a (new) | 72 | Paulus | Falls if CA 1 adopted | | |
| Directive 2005/35/EC – Article 12a – paragraph 2a (new) | 122 | Paulus | Falls if CA 1 adopted Deemed adopted if 56 adopted AND CA 1 NOT adopted | | |
| Article 10 – paragraph 1a (new) | PECH 35 | | Falls if CA 1 adopted | | |
| | 123 | Cerdas, Plumb | Falls if CA 1 adopted Deemed adopted if 57 adopted AND CA 1 NOT adopted | | |
| Recital 6a (new) | ► CA 1A | Greens, the Left | If adopted, CA 1B falls | - | |
| | CA 1B | EPP, S&D, RE, ECR | Falls if CA 1A adopted | + | |
| Article 4, Article 5 | ► CA 3 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, 68, 69, 70, 73, PECH 21, 4, 75 and 5 fall If adopted go to ► PECH 20 | + | |
| Directive 2005/35 – Article 4 – paragraph 1 | 68 | Paulus | Falls if CA 3 adopted | | |
| Directive 2005/35 – Article 4 – paragraph 1 – point c | 69 | Paulus | Falls if CA 3 adopted | | |
| Directive 2005/35 – Article 4 – paragraph 1 – point f | 70 | Fidanza | Falls if CA 3 adopted | | |
| Directive 2005/35 – Article 4 – paragraph 2 | ► PECH 20 | | | + | |
| Directive 2005/35 – Article 5 – paragraph 1 | 73 | Marinescu | Fall if CA 3 adopted Identical | | |
| | 74 | Fidanza | | | |
| | PECH 21 | | Falls if CA 3 adopted | | |
| | 4 | Marinescu | Falls if CA 3 adopted | | |

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| | 75 | Paulus | Falls if CA 3 or 4 adopted | | |
| Directive 2005/35 – Article 5 – paragraph 1 – point a | 5 | Marinescu | Falls if CA 3 adopted | | |
| Directive 2005/35 – Article 5 – paragraph 1 – point ba (new) | ► PECH 22 | | | + | |
| | ► PECH 23 | | | + | |
| Directive 2005/35 – Article 5 – paragraph 2 | ► PECH 24 | | <i>Rapporteur: Addition on “ignoring warnings in particular” and “with full awareness of the danger” could be understood as reducing the obligation for company/master/crew to actively foresee, prevent damage, even without explicit prior warning, even when less obvious.</i> | - | |
| Article 6, Recital 3b (new), Recital 16, Recital 17 | ► CA 4 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, 6, 2, 31, 32, 34, 35 and 33 fall | + | |
| Directive 2005/35 – Article 6 – paragraph 2 | 6 | Marinescu | Falls if CA 4 adopted | | |
| Article 8, Article 8d, Article 10c, Recital 9, Recital 10, Recital 19 | ► CA 5 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, PECH 19, 76, 77, 78, 79, 80, 7, 82, 83, 84, PECH 28, 85, PECH 30, PECH 32, 8, PECH 33, 86, 98, 101, 102, 103, PECH 7, 17, 18, 3, PECH 8, PECH 9, 19, 36, PECH 15, 37, 38, 39, 40 and 41 fall If adopted go to ► PECH 25 | + | |
| Directive 2005/35 – Article 2 – paragraph 6a (new) | PECH 19 | | Falls if CA 5 adopted <i>Falls if word “equipment” is deleted under CA 5, no need for definition.</i> | | |
| Directive 2005/35 – Article 8 – paragraph 1 | 76 | Chaibi | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 8 – paragraph 2 | 77 | García Muñoz | Falls if CA 5 adopted <i>Deletion</i> | | |
| | 78 | Chaibi | Falls if CA 5 or 77 adopted | | |
| | 79 | Paulus | Falls if CA 5, 77 or 78 adopted | | |

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| Directive 2005/35 – Article 8 – paragraph 3 | 80 | García Muñoz | Falls if CA 5 adopted Deemed adopted if 77 adopted AND CA 5 NOT adopted Identical Deletion | | |
| | 81 | Paulus | | | |
| | 7 | Marinescu | Falls if CA 5, 77, 78 or 80 adopted | | |
| | 82 | Chaibi | Falls if CA 5, 77, 80 or 7 adopted | | |
| Directive 2005/35 – Article 8 – paragraph 3a (new) | ► PECH 25 | | <i>Rapporteur: Directive is ship type neutral, applies to pollution from all ships. It could create confusion to single out certain ship types, such as fishing vessels. Link to the penalty system seems unclear.</i> | - | |
| Directive 2005/35 – Article 8d – paragraph 1 | 83 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 5 adopted | | |
| | 84 | Paulus | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 8d – paragraph 1 – point aa (new) | PECH 26 | | No vote Covered <i>covered by COM text: Article 8d - paragraph 1 - point a</i> | | |
| | ► PECH 27 | | <i>Rapporteur: Penalties should depend on the size of the damage, not on the size of the ship. A small ship can do significant damage. It should not have reduced penalties only because of its size.</i> | - | |
| Directive 2005/35 – Article 8d – paragraph 1 – point c | PECH 28 | | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 8d – paragraph 1 – point ca (new) | ► PECH 31 | | | + | |
| Directive 2005/35 – Article 8d – paragraph 1 – point d | 85 | Paulus | Falls if CA 5 adopted Deemed adopted if 84 adopted AND CA 5 NOT adopted | | |
| Directive 2005/35 – Article 8d – paragraph 1 – point fa (new) | ► PECH 29 | | <i>Rapporteur: The AM's aim to allow for reduced penalties goes against the intention of CA5 of TRAN compromises.</i> | - | |

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| Directive 2005/35 – Article 8d – paragraph 1 – point h | PECH 30 | | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 8d – paragraph 1 – point ha (new) | PECH 32 | | Falls if CA 5 adopted <i>Covered by Comp 5 which already contains language on dissuasiveness of penalties.</i> | | |
| Directive 2005/35 – Article 8d – paragraph 1a (new) | 8 | Marinescu | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 8d – paragraph 1a (new) | PECH 33 | | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 8d – paragraph 2 | 86 | Monteiro de Aguiar | Falls if CA 5 adopted | | |
| | 98 | Marinescu | Fall if CA 5 adopted Identical | | |
| | 99 | Fidanza | | | |
| | 100 | Rasmussen, Nagtegaal | | | |
| | 101 | Paulus | Falls if CA 5 adopted | | |
| | 102 | Furore, Danzi | Falls if CA 5 adopted | | |
| Directive 2005/35 – Article 10c – paragraph 2 | 103 | Paulus | Falls if CA 5 adopted | | |
| Article 10, Article 10b, Recital 13, Recital 14 | ► CA 6 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, 88, 91, 9, 90, 92, PECH 36, 97, 96, 20, 21, PECH 10, 22, 23, 24, 25, 26, PECH 12, 27 and PECH 13 fall | + | |
| Directive 2005/35 – Article 10 – paragraph 1 | ► 87 | Monteiro de Aguiar | | + | |
| Directive 2005/35 – Article 10 – paragraph 1 – point d | 88 | Paulus | Fall if CA 6 adopted Identical | | |
| | 89 | Furore, Danzi | | | |
| | 91 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 6 or 88 adopted | | |
| | 9 | Marinescu | Falls if CA 6, 88 or 91 adopted | | |

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| | 90 | Chaibi | Falls if CA 6, 88, 91 or 9 adopted | | |
| Directive 2005/35 – Article 10 – paragraph 1 – point da (new) | ► PECH 34 | | | + | |
| Directive 2005/35 – Article 10 – paragraph 2 | 92 | Monteiro de Aguiar | Falls if CA 6 adopted | | |
| | PECH 36 | | Falls if CA 6 adopted | | |
| Directive 2005/35 – Article 10b | 97 | Monteiro de Aguiar | Falls if CA 6 adopted | | |
| | 96 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 6 or 97 adopted | | |
| Directive 2005/35 – Article 10b – paragraph 1a (new) | ► PECH 38 | | <i>Rapporteur: This directive shall prevent, detect and sanction ship source pollution everywhere, not only in fishing waters. This fishing specific AM could risk shifting the focus away from this general objective and potentially even water it down.</i> | - | |
| Directive 2005/35 – Article 10d – paragraph 1 | ► PECH 40 | | | + | |
| Directive 2005/35 – Article 10d – paragraph 2 | ► PECH 41 | | <i>Rapporteur: Sceptical about the added value. The intention seems already covered in the EC's obligation to follow-up.</i> | - | |
| Directive 2005/35 – Article 10d – paragraph 2a (new) | ► PECH 42 | | <i>Rapporteur: This addition does not seem necessary and could even create legal uncertainty as to the difference in wording with Directive 2019/1937 on the protection of whistleblowers that both previous paragraphs of this article are already referring to. Directive 2019/1937 already contains very detailed provisions against “retaliation”, on “confidentiality” that seem to cover the intentions of this AM and to even go beyond it.</i> | - | |

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| Article 12, Article 10e (new), Recital 3a (new), Recital 3b (new), Recital 3c (new) | ► CA 7 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, 105, 124, 10, 1 and 15 fall If adopted, go to ► CA 2 | + | |
| Directive 2005/35 – Article 12 | 105 | Marinescu | Falls if CA 7 adopted | | |
| Directive 2005/35 – Article 12b (new) | 124 | Marinescu | Falls if CA 7 adopted Deemed adopted if 105 adopted AND CA 7 NOT adopted | | |
| Directive 2005/35 – Article 10e (new) | 10 | Marinescu | Falls if CA 7 or 105 adopted | | |
| Article 12a | ► CA 2 | EPP, S&D, RE, Greens, ECR, the Left | If adopted, 108, 106, 107, 116, 111, 109, 112, 115, 113, 114, 110, PECH 43, 118, 121, 117, 11, 119, 120 and PECH 44 fall If adopted, go to ► PECH 1 | + | |
| Directive 2005/35 – Article 12a – paragraph 1 – point a | 108 | Cerdas, Plumb | Falls if CA 2 adopted | | |
| | 106 | Paulus | Falls if CA 2 or 108 adopted | | |
| | 107 | Chaibi | Falls if CA 2, 108 or 106 adopted | | |
| Directive 2005/35 – Article 12a – paragraph 1 – point ba (new) | 116 | Cerdas, Plumb | Falls if CA 2 adopted | | |
| | 111 | Karleskind | Falls if CA 2 or 116 adopted | | |
| | 109 | Paulus | Falls if CA 2, 116 or 111 adopted | | |
| Directive 2005/35 – Article 12a – paragraph 1 – point bb (new) | 112 | Paulus | Falls if CA 2 adopted | | |
| | 115 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 2 or 112 adopted | | |
| | 113 | Chaibi | Falls if CA 2, 112 or 115 adopted | | |

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| Directive 2005/35 – Article 12a – paragraph 1 – point bc (new) | 114 | Paulus | Falls if CA 2 adopted | | |
| | 110 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 2 or 114 adopted | | |
| | PECH 43 | | Falls if CA 2 adopted | | |
| Directive 2005/35 – Article 12a – paragraph 2 | 118 | Fidanza | Falls if CA 2 adopted | | |
| | 121 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 2 adopted | | |
| | 117 | Cerdas | Falls if CA 2, 118 or 121 adopted | | |
| | 11 | Marinescu | Falls if CA 2, 118, 121 or 117 adopted | | |
| | 119 | Karleskind | Falls if CA 2, 118, 121, 117 or 11 adopted | | |
| | 120 | Paulus | Falls if CA 2, 118, 121, 117, 11 or 119 adopted | | |
| Directive 2005/35 – Article 12 – paragraph 2a (new) | PECH 44 | | Falls if CA 2 adopted | | |
| Recital 1 | ► PECH 1 | | <i>Rapporteur: This is an EU directive on EU measures, not an IMO resolution on IMO/UN global action.</i> | - | |
| Recital 2a (new) | PECH 2 | | Falls if CA 1 adopted | | |
| | PECH 3 | | Falls if CA 1 adopted | | |
| Recital 3a (new) | 1 | Marinescu | Falls if CA 7 adopted | | |
| | 2 | Marinescu | Falls if CA 4 adopted | | |
| Recital 4 | 12 | Chaibi | Falls if CA 1 adopted | | |
| Recital 4a (new) | ► PECH 4 | | <i>Rapporteur: the directive is ship type neutral. It would create confusion to single out certain ship types, such as fishing vessels.</i> | - | |
| Recital 5a (new) | PECH 5 | | Falls if CA 1 adopted | | |

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| Recital 6 | 13 | Paulus | Falls if CA 1 adopted | | |
| | 15 | Marinescu | Falls if CA 7 adopted Deemed adopted if 105 adopted AND CA 7 NOT adopted | | |
| Recital 6a (new) | 14 | Paulus | Falls if CA 1 adopted | | |
| | 16 | Paulus | Falls if CA 1 adopted Deemed adopted if 67 adopted AND CA 1 NOT adopted | | |
| Recital 7a (new) | PECH 6 | | Falls if CA 1 adopted | | |
| Recital 8 | PECH 7 | | Falls if CA 5 adopted | | |
| Recital 9 | 17 | Paulus | Falls if CA 5 adopted | | |
| | 18 | Chaibi | Falls if CA 5 or 17 adopted | | |
| | 3 | Marinescu | Falls if CA 5, 17 or 18 adopted | | |
| | PECH 8 | | Falls if CA 5, 17, 18 or 3 adopted | | |
| Recital 10 | PECH 9 | | Falls if CA 5 adopted | | |
| | 19 | Paulus | Falls if CA 5 adopted | | |
| Recital 11 | 20 | Paulus | Falls if CA 6 adopted | | |
| Recital 12 | 21 | Monteiro de Aguiar | Falls if CA 6 adopted | | |
| | PECH 10 | | Falls if CA 6 adopted | | |
| | 22 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 6 or PECH 10 adopted | | |
| Recital 12a (new) | ► PECH 11 | | <i>Rapporteur: Out of scope. Added value unclear.</i> | - | |
| Recital 13 | 23 | Paulus | Falls if CA 6 adopted | | |
| | 24 | Furore, Danzi | Falls if CA 6 or 23 adopted | | |
| | 25 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 6, 23 or 24 adopted | | |
| | 26 | Cerdas | Falls if CA 6, 23, 24 or 25 adopted | | |
| | PECH 12 | | Falls if CA 6 adopted | | |

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| Recital 14 | 27 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 6 adopted | | |
| | PECH 13 | | Falls if CA 6 adopted | | |
| Recital 15 | 28 | Karleskind | Falls if CA 1 adopted | | |
| | 29 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 1 adopted | | |
| | PECH 14 | | Falls if CA 1 adopted | | |
| Recital 15 a (new) | 30 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 1 adopted | | |
| Recital 16 | 31 | Paulus | Falls if CA 4 adopted | | |
| | 32 | Monteiro de Aguiar | Falls if CA 4 adopted | | |
| Recital 17 | 34 | Paulus | Falls if CA 4 adopted | | |
| | 35 | Monteiro de Aguiar | Falls if CA 4 adopted | | |
| | 33 | Rasmussen, Karleskind, Nagtegaal | Falls if CA 4 or 35 adopted | | |
| Recital 18 | 36 | Furore, Danzì | Falls if CA 5 adopted | | |
| | PECH 15 | | Falls if CA 5 or 36 adopted | | |
| | 37 | Paulus | Falls if CA 5 adopted | | |
| | 38 | Cerdas, Plumb | Falls if CA 5 adopted | | |
| Recital 18a (new) | 39 | Furore, Danzì | Falls if CA 5 adopted | | |
| Recital 19 | 40 | Paulus | Falls if CA 5 adopted | | |
| | 41 | Monteiro de Aguiar | Falls if CA 5 adopted | | |
| Recital 21 | 43 | Paulus | Falls if CA 1 adopted | | |
| | 42 | Chaibi | Falls if CA 1 adopted | | |
| | PECH 16 | | Falls if CA 1 adopted | | |
| | 44 | Monteiro de Aguiar | Falls if CA 1 adopted | | |
| Recital 21a (new) | 45 | Paulus | Falls if CA 1 adopted | | |
| Recital 21b (new) | 46 | Paulus | Falls if CA 1 adopted | | |

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| Recital 21c (new) | 47 | Paulus | Falls if CA 1 adopted | | |
| ► Final vote – Draft as amended (Roll-call vote) | | | | + | |
| Vote on mandate – Interinstitutional negotiations (Roll-call vote; Required majority: 25) | | | | + | |

Agence Europe

Final draft COMPROMISE AMENDMENTS

as agreed at 24/10 Shadows' meeting with the rapporteur, Marian-Jean Marinescu, MEP, on the TRAN draft report on the

Proposal for a directive (COM(2023)0273 – C9-0187/2023 – 2023/0171(COD))

Amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences

Compromise 1, Purpose & Scope

Amendments covered/falling: 12, 13, 14, 16, 28, 29, 30, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 87, 94, 122, 123

Supported by: EPP, S&D, RE, Greens, ECR, Left

Title of the Directive

Directive of the European Parliament and of the Council on the enforcement of international standards on pollution from ships and on the introduction of penalties for pollution offences;

Directive of the European Parliament and of the Council on the enforcement of international standards on pollution from ships and on the introduction of penalties for pollution offences;

Article 1

Purpose

1. The purpose of this Directive is to incorporate into Union law international standards on pollution from ships and to ensure that persons responsible for illegal discharges of polluting substances are subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships.

1. The purpose of this Directive is to incorporate into Union law international standards on pollution from ships and to ensure that persons **and companies** responsible for illegal discharges of polluting substances are subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships.

2. This Directive does not prevent Member States from taking more stringent measures in conformity with international law, by providing for administrative or criminal penalties in accordance with their national law.;

2. This Directive does not prevent Member States from taking more stringent measures in conformity with **Union and** international law, by providing for administrative or criminal penalties in accordance with their national law.

Article 2

Definitions

2. 'polluting substances' means substances subject to regulation by Marpol 73/78 Annexes I (oil), II (noxious liquid substances in bulk), III (harmful substances

2. 'polluting substances' means substances subject to regulation by Marpol 73/78 Annexes I (oil), II (noxious liquid substances in bulk), III (harmful substances

carried by sea in packaged form), IV (sewage from ships), V (garbage from ships) and Exhaust Gas Cleaning System residue;

3. 'Exhaust Gas Cleaning System residue' shall mean any material removed from the washwater or the bleed-off water by a treatment system or discharge water that does not meet the discharge criterion, or other residue material removed from the exhaust gas cleaning system **discharged overboard** as a result of the operation of a compliance method for emissions reductions, as defined in Annex VI Regulation 4 to Marpol 73/78, used as an alternative in terms of emissions reductions to the standards set forth in Regulation 14 of Annex VI to Marpol 73/78, taking into account the guidelines developed by the IMO;

(a) 'discharge' shall mean any release howsoever caused from a ship, as referred to in Article 2 of Marpol 73/78;

carried by sea in packaged form), IV (sewage from ships), V (garbage from ships) and Exhaust Gas Cleaning System residue;

3. 'Exhaust Gas Cleaning System residue' shall mean any material removed from the washwater or the bleed-off water by a treatment system or discharge water that does not meet the discharge criterion, or other residue material removed from the exhaust gas cleaning system as a result of the operation of a compliance method for emissions reductions, as defined in Annex VI Regulation 4 to Marpol 73/78, used as an alternative in terms of emissions reductions to the standards set forth in Regulation 14 of Annex VI to Marpol 73/78, taking into account the guidelines developed by the IMO;

3a. 'discharge' shall mean any release howsoever caused from a ship, as referred to in Article 2 of Marpol 73/78;

Article 3 Scope

1. This Directive shall apply, in accordance with international law, to discharges of polluting substances in:

- (a) the internal waters, including ports, of a Member State, in so far as the Marpol regime is applicable;
- (b) the territorial sea of a Member State;
- (c) straits used for international navigation subject to the regime of transit passage, as laid down in Part III, section 2, of the 1982 United Nations Convention on the Law of the Sea, to the extent that a Member State exercises jurisdiction over such straits;
- (d) the exclusive economic zone or equivalent zone of a Member State, established in accordance with international law; and
- (e) the high seas.

1. This Directive shall apply, in accordance with international law, to discharges of polluting substances in:

- (a) the internal waters, including ports, of a Member State, in so far as the Marpol regime is applicable;
- (b) the territorial sea of a Member State;
- (c) straits used for international navigation subject to the regime of transit passage, as laid down in Part III, section 2, of the 1982 United Nations Convention on the Law of the Sea, to the extent that a Member State exercises jurisdiction over such straits;
- (d) the exclusive economic zone or equivalent zone of a Member State, established in accordance with international law; and
- (e) the high seas.

2. This Directive shall apply to discharges of polluting substances from any ship, irrespective of its flag, with the exception of any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

1. The Commission shall establish an electronic reporting tool, for the purposes of collection and exchange of information between the Member States and the Commission on the implementation of the enforcement system provided by this Directive.

2. Member States shall ensure that the following information relating to the actions undertaken by their competent authorities is reported through the electronic reporting tool referred to in paragraph 1:

(a) information relating to the follow-up by competent authorities of an alert sent by CleanSeaNet or the reasons for not following up such an alert, as soon as the follow-up activities are completed;

(b) information relating to the inspections undertaken in accordance with Article 6, as soon as the inspection is completed;

(c) information relating to the actions undertaken in accordance with Article 7, as soon as such actions are completed;

(d) information relating to penalties imposed in accordance with this Directive, without undue delay and in any case, by 30 June each year for penalties imposed during the previous calendar year. To the extent that information relating to penalties include personal data, such information shall be anonymised.

2. This Directive shall apply to discharges of polluting substances from any ship, irrespective of its flag, with the exception of any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

1. The Commission, *via EMSA*, shall establish an electronic reporting tool, for the purposes of collection and exchange of information between the Member States and the Commission on the implementation of the enforcement system provided by this Directive.

2. Member States shall ensure that the following information relating to the actions undertaken by their competent authorities is reported through the electronic reporting tool referred to in paragraph 1:

(a) information relating to the follow-up by competent authorities of an alert sent by CleanSeaNet or the reasons for not following up such an alert, as soon as the follow-up activities are completed;

(b) information relating to the inspections undertaken in accordance with Article 6, as soon as the inspection is completed;

(c) information relating to the actions undertaken in accordance with Article 7, as soon as such actions are completed;

(d) information relating to penalties imposed in accordance with this Directive, without undue delay and in any case, by 30 June each year for penalties imposed during the previous calendar year. To the extent that information relating to penalties include personal data, such information shall be anonymised.

(da new) a yearly overview of container losses reported to IMO under the International Convention for the Safety of Life at Sea (SOLAS). For each loss, the

reporting should include the route of the vessel, as well as the cause and the location of the loss if they are known.

3. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the procedure for reporting the information mentioned in paragraph 2, including specifying the type of information to be reported, in accordance with the examination procedure set out in Article 13.

3. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the procedure for reporting the information mentioned in paragraph 2, including specifying the type of information to be reported, in accordance with the examination procedure set out in Article 13.

Recital 4

(4) Directive (EU) 2019/883 of the European Parliament and of the Council²⁰ ensures that waste is delivered to Union ports, where it is collected by adequate port reception facilities. The enforcement of Directive 2019/883/EC is, together with Directive 2005/35/EC, a key instrument in preventing ship-source pollution. In order to ensure an effective, integrated and coherent enforcement system vis-à-vis the provisions of Directive (EU) 2019/883 on waste delivery to port reception facilities, Directive 2005/35/EC should be amended in order to extend its scope to Annexes IV to VI to Marpol 73/78, in view of discouraging ships from discharging illegally polluting substances into the sea, instead of delivering them in port reception facilities in accordance with the provisions of Directive (EU) 2019/883.

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²⁰ Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).

²⁰ Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).

Recital 6

(6) Marpol 73/78 includes emissions from ships in the definition of discharges in Article 2 thereof. Annex VI to Marpol

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73/78 addresses the prevention of air pollution from ships. Annex VI and the corresponding IMO guidelines on Exhaust Gas Cleaning Systems (EGCS) (Resolution MEPC.340 (77)) allow for the use of EGCS by ships of as an alternative compliance method to reduce sulphur oxide (SOx) emissions. Annex VI regulate the residue and discharge water from EGCS, either by prohibiting their discharge at sea and requiring their delivery to adequate port reception facilities (in the case of EGCS residue from close loops systems) or regulating the conditions for their discharge (in the case of discharge water from open loop systems). Directive (EU) 2016/802 of the European Parliament and of the Council²¹ transposes international SOx standards in Union law, while Directive (EU) 2019/883 ensures that EGCS residue is delivered in port reception facilities. Since EGCS residue and discharge water may cause pollution to the marine environment, the penalties provided under Directive 2005/35/EC should apply in case of illegal discharges. For those reasons, the scope of Directive 2005/35/EC should be extended to EGCS residue and discharge water, taking into account the guidelines developed by the IMO, without prejudice to the provisions of Directive (EU) 2016/802 setting out any stricter discharge norms and penalties therefor.

²¹ Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (codification) (OJ L 132, 21.5.2016, p. 58).

(15) The European Maritime Safety Agency ('EMSA') established by Regulation (EU) xxxx/xxxx²⁹ should provide the necessary support to the Commission to ensure the implementation of this Directive.

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Recital 15

(15) The European Maritime Safety Agency ('EMSA') established by Regulation (EU) xxxx/xxxx²⁹ should provide the necessary support to the Commission **and relevant Member State authorities** to ensure the implementation of this Directive.

Recital 15 a (new)

(15a) 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.

Recital 21

(21) Discussions are ongoing at the IMO regarding new environmental issues in relation to international shipping, resulting in both water and air pollution. These include the water pollutants of marine litter, such as the loss of containers and plastic pellets, and underwater noise and air pollutants such as black carbon. These discussions may result in new regulations under Marpol 73/78. Moreover, Directive 2008/56/EC of the European parliament and of the Council³⁴ requires Member States to achieve good environmental status in the marine environment, which includes, amongst others, marine litter and underwater noise from ships as qualitative descriptors. Relatedly, Directive (EU) 2023/xxxx³⁵ sets limit values for nitrogen dioxide (NO₂) resulting from nitrogen oxide (NO_x) emissions. Shipping activities contribute to higher NO₂ levels in coastal and port areas. Against this background, a future review of Directive 2005/35/EC should take into account new developments and the Commission should examine the possibility of modifying the scope of this Directive, if appropriate, in view of any new international standards under Marpol 73/78. A future review should assess the possibility of modifying the scope of Directive 2005/35/EC, if appropriate, to incorporate SO_x and NO_x emissions, as regulated in Annex VI to Marpol, based on the experience gained in implementing the Directive (EU) 2016/802 and on the development and maturity of monitoring

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and detecting SO_x and NO_x emissions from ships, with a view to ensure a coherent, efficient and effective enforcement regime, as well as the imposition of dissuasive penalties therefor, in line with the Zero Pollution Action Plan and, in particular, Flagship 5 thereof ‘Enforcing zero pollution together’.

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Supported by: Greens, Left

Recital 6a (new)

*(6a) Beyond the scope of the present Directive, Marine pollution is broader than the specific ship-source aspects covered by Marpol 73/78 annexes, as defined in Article 3 paragraph 8 of Directive (EU) 2008/56/EC and also covered by other relevant EU legislation. It results in harming biodiversity and living resources in marine ecosystems, as well as in hazards to human health and the impairment of the quality for use of sea water and the sustainable use of marine goods and services, hence hindering other marine activities, such as fishing, tourism and recreation. Underwater noise pollution, produced by shipping, is detrimental to marine species both in the short and long term, particularly to marine mammals, but also to fish, crustaceans, and invertebrates, as they use sound to find food, communicate with one another and avoid predators. Reporting by Member States of incidents involving excessive underwater noise should be encouraged. **The polluting wastewater discharges of open loop scrubbers contravene article 195 on Law of the Sea (UNCLOS), while air pollution, such as black carbon, PM or NO_x, can become a public health threat, particularly in coastal areas, as well as the release of plastic microbeads and pellets from containers.***

Supported by: EPP, S&D, Renew, ECR

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Compromise 2, Review

Amendments covered/falling: 11, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121

Supported by: EPP, S&D, RE, Greens, ECR, Left

1. By [OP: Please insert a date: five years from the date of transposition of this amending Directive], the Commission shall carry out an evaluation of this Directive. The evaluation shall be based on at least the following:

(a) the experience gathered from the implementation of this Directive; *and*

(b) the information reported by Member States pursuant to Article 10a and the Union wide overview provided in accordance with Article 10c.

2. As part of the review, the Commission shall assess the possibility of modifying the scope of this Directive, if appropriate, in view of among other elements the international standards for the prevention of air pollution from ships subject to regulation by Marpol 73/78, notably sulphur oxide and nitrogen oxide emissions from ships, as well as in view of other standards regulating discharges from ships which have been made subject to regulation by Marpol 73/78, such as black carbon, marine litter, container loss, loss of plastic pellets and underwater noise.

1. By [OP: Please insert a date: five years from the date of transposition of this amending Directive], the Commission shall carry out an evaluation of this Directive. The evaluation shall be based on at least the following:

(a) the experience gathered from the implementation of this Directive;

(b) the information reported by Member States pursuant to Article 10a and the Union wide overview provided in accordance with Article 10c; *and*

(c) the interaction of this Directive with other relevant international and Union legislation on marine environment protection and maritime safety;

(d) the latest data and scientific findings.

2. As part of the review, the Commission shall assess the possibility of modifying the scope of this Directive, if appropriate, in view of *developments under international conventions and EU legislation on* among other elements the international standards for the prevention of air pollution from ships subject to regulation by Marpol 73/78, notably sulphur oxide and nitrogen oxide emissions from ships, as well as in view of other standards regulating discharges from ships which have been made subject to regulation by Marpol 73/78, such as black carbon, marine litter *from sources other than ships*, container loss *for containers other than those already covered by Marpol annex III*, loss of plastic pellets and underwater noise. *Any modification of the scope shall take into consideration*

existing international and EU legislation and avoid overlapping with existing EU legislative provisions and enforcement mechanisms.

Compromise 3, Infringements & Exceptions

Amendments covered/falling: 4, 5, 68, 69, 70, 71, 72, 73, 74, 75
Supported by: EPP, S&D, RE, Greens, ECR, Left

1. Member States shall ensure that discharges of polluting substances into any of the areas set out in Article 3(1) are regarded as infringements, unless:

(c) for polluting substances subject to regulation by Annex III to Marpol 73/78, it satisfies the conditions set out in Annex III Regulation 8.1 to Marpol 73/78;

(f) for Exhaust Gas Cleaning System residue, it satisfies the conditions set out in Annex VI Regulations 14.1, 14.4, 14.6 and 3.1.1 to Marpol 73/78.

1. A discharge of polluting substances subject to regulation by Annexes I, II and VI to Marpol 73/78 into the areas set out in Article 3(1) points (c), (d) and (e) shall not be regarded as an infringement for the company, the master or the crew, if both of the following conditions are fulfilled:

(a) the discharge results from damage to a ship *or its equipment*;

1. Member States shall ensure that discharges of polluting substances into any of the areas set out in Article 3(1) are regarded as infringements, unless:

(c) for polluting substances subject to regulation by Annex III to Marpol 73/78, it satisfies the conditions set out in Annex III Regulation 8.1 to Marpol 73/78;

(f) for Exhaust Gas Cleaning System residue, it satisfies the conditions set out in Annex VI Regulations **4**, 14.1, 14.4, 14.6 and 3.1.1 to Marpol 73/78, *taking into account the guidelines developed by the IMO.*

1. A discharge of polluting substances subject to regulation by Annexes I, II, and VI to Marpol 73/78 into the areas set out in Article 3(1) points **(b)** (c), (d) and (e) shall not be regarded as an infringement for the company, the master or the crew, if both of the following conditions are fulfilled:

(a) the discharge results from damage to a ship;

Compromise 4, Enforcement

Amendments covered/falling: 2, 6, 31, 32, 33, 34, 35

2. In so far as the inspection referred to in paragraph 1 reveals facts that could indicate an infringement within the meaning of Article 4, the competent authorities of that Member State and of the flag State shall be informed.

2. In so far as the inspection referred to in paragraph 1 reveals facts that could indicate an infringement within the meaning of Article 4, ***the Member State shall apply the provisions of this Directive taking into account Articles 8 and 9.*** The competent authorities of that Member State and of the flag State shall be informed.

(3b) When applying the provisions of this Directive and the corresponding national laws, the Marpol 73/78 and its Annexes referred to in this Directive in force at the date of infringement should be considered.

(16) Member States should report to the Commission the information needed to ensure a proper monitoring of the implementation of Directive 2005/35/EC. In order to limit administrative burden and assist the Commission in analysing the data provided by Member States, such information should be reported by Member States through a dedicated electronic reporting tool. To the extent that such information relates to penalties imposed to or involving natural persons, such information shall be anonymised. In order to ensure that information reported in accordance with Directive 2005/35/EC is comparable in type among Member States and collected on the basis of a harmonised electronic format and procedure for reporting, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(16) Member States should report to the Commission ***and EMSA*** the information needed to ensure a proper monitoring of the implementation of Directive 2005/35/EC. In order to limit administrative burden and assist the Commission in analysing the data provided by Member States, such information should be reported by Member States through a dedicated electronic reporting tool ***developed by EMSA***. To the extent that such information relates to penalties imposed to or involving natural persons, such information shall be anonymised. In order to ensure that information reported in accordance with Directive 2005/35/EC is comparable in type among Member States and collected on the basis of a harmonised electronic format and procedure for reporting, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(17) In order to assist Member States with the development of their capacities regarding effective enforcement of

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Directive 2005/35/EC by the national administrative and judicial authorities, the Commission should provide Member States with guidance and training relating to, inter alia, best methods and practices for detection, verification and evidence collection, as well as guidance on relevant regulatory developments of Marpol 73/78 and on technological developments available, including new digital tools, in order to facilitate effective, cost-efficient and targeted enforcement activities.

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Compromise 5, Penalties

Amendments covered/falling: 3, 7, 8, 17, 18, 19, 36, 37, 38, 40, 41, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 98, 99, 100, 101, 102, 103
Supported by: EPP, S&D, RE, Greens, ECR, Left

1. Without prejudice to the obligations of Member States under Directive (EU) 2023/xxxx³⁶ Member States shall lay down a system of administrative penalties for the breach of national provisions implementing Articles 4 and Article 5(2) of this Directive and shall ensure that they are applied. The administrative penalties provided for shall be dissuasive, effective and proportionate.

2. Member States shall ensure that penalties introduced in transposition of this Directive include fines which are imposed to the company at the time of the infringement, unless the company can prove that the master or, if not acting under the responsibility of the master, the crew was responsible for the infringement.

3. 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 shall ensure that penalties are imposed to such persons in accordance with the provisions of this Directive.;

1. Without prejudice to the obligations of Member States under Directive (EU) 2023/xxxx³⁶ Member States shall lay down a system of administrative penalties for the breach of national provisions implementing Articles 4 and Article 5(2) of this Directive and shall ensure that they are applied. The administrative penalties provided for shall be dissuasive, effective and proportionate.

2. Member States shall ensure that penalties introduced in transposition of this Directive include fines which are imposed to the company at the time of the infringement, unless the company can prove that the master or, if not acting under the responsibility of the master, the crew was responsible for the infringement.

3. 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 shall ensure that penalties are imposed to such persons in accordance with the provisions of this Directive. ***In case, 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 shall remain responsible as a last resort, for the payment of the full amount or of the remainder of the penalty;

(9) The penalties provisioned by Directive 2005/35/EC should be strengthened by ensuring consistent application of administrative penalties throughout the Union. To strengthen the deterrent effect of penalties imposed for ship-source pollution offences, such penalties should take at least the form of fines imposed to the company of the ship, unless the company can prove that the master of the ship or a member or members of the crew, the latter not acting under the responsibility of the master, was responsible for the discharge. In this context, the company of ship means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner, in alignment with the International Management Code for the Safe Operation of Ships and for Pollution Prevention ('ISM Code')²⁴, implemented in Union law by virtue of Regulation (EC) No 336/2006 of the European Parliament and of the Council²⁵. Directive 2005/35/EC should recognise that the management of the ship could be delegated by the registered owner to a different entity, which should then be held in the first place responsible for not implementing its obligations under the ISM Code to ensure the avoidance of damage to the environment or the assignment of shipboard operations to qualified personnel.

(9) The penalties provisioned by Directive 2005/35/EC should be strengthened by ensuring consistent application of administrative penalties throughout the Union. To strengthen the deterrent effect of penalties imposed for ship-source pollution offences, such penalties should take at least the form of fines imposed to the company of the ship, unless the company can prove that the master of the ship or a member or members of the crew, the latter not acting under the responsibility of the master, was responsible for the discharge. ***This possibility to hold the master or the crew responsible should, however, not prevent the payment of the full amount of the penalty. To ensure that any environmental damage caused by illegal discharges under this directive is effectively sanctioned with penalties, the company should remain responsible as a last resort.*** In this context, the company of ship means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner, in alignment with the International Management Code for the Safe Operation of Ships and for Pollution Prevention ('ISM Code')²⁴, implemented in Union law by virtue of Regulation (EC) No 336/2006 of the European Parliament and of the Council²⁵. Directive 2005/35/EC should recognise that the management of the ship could be delegated by the registered owner to a different entity, which should then be held in the first place responsible for not implementing its obligations under the ISM Code to ensure the avoidance of damage to the

environment or the assignment of shipboard operations to qualified personnel.

²⁴ International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation by Assembly Resolution A.741(18) of 4 November 1993, as amended.

²⁵ Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (Text with EEA relevance) (OJ L 64, 4.3.2006, p.1).

(10) National administrative and judicial authorities should take into account all relevant circumstances when determining the level of penalties to be imposed to the polluter. Taking into account the diverse nature of polluting substances covered under Directive 2005/35/EC and the importance of consistent application of penalties across the Union in light of the cross-border nature of the regulated behaviour, further approximation and effectiveness of penalty levels should be fostered through the establishment of concrete criteria for the application of penalties for discharges of different polluting substances. In order to ensure the uniform conditions for the application of penalties, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶. The examination procedure should be used for the adoption of these implementing acts.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of

²⁴ International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation by Assembly Resolution A.741(18) of 4 November 1993, as amended.

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(10) National administrative and judicial authorities should take into account all relevant circumstances, **including *recidivism***, when determining the level of penalties to be imposed to the polluter. Taking into account the diverse nature of polluting substances covered under Directive 2005/35/EC and the importance of consistent application of penalties across the Union in light of the cross-border nature of the regulated behaviour, further approximation and effectiveness of penalty levels should be fostered through the establishment of concrete criteria for the application of penalties for discharges of different polluting substances. In order to ensure the uniform conditions for the application of penalties, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶. The examination procedure should be used for the adoption of these implementing acts.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of

16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

1. Member States shall 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 within the meaning of Articles 4 and 5(2), the competent authorities take into account all relevant circumstances of the infringement, including:

- (a) the nature, gravity and the duration of the discharge;
- (b) the degree of culpability of the responsible person;
- (c) the damage caused from the discharge to the environment or human health;
- (d) the financial strength of the responsible person, taking into account, as appropriate, the annual world-wide turnover of the responsible legal person;
- (e) the economic benefits generated or expected to be generated for the responsible person from the infringement;
- (f) measures taken by the responsible person to prevent the discharge or mitigate its impacts;
- (g) the level of cooperation of the responsible person with the competent authority, including any action aiming to circumvent or obstruct an appropriate inspection or other investigation by a competent authority; and
- (h) any previous infringement by the responsible person.

16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

1. ***In order to ensure that the penalties are dissuasive, effective and proportionate***, Member States shall 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 within the meaning of Articles 4 and 5(2), the competent authorities take into account all relevant circumstances of the infringement, including:

- (a) the nature, gravity and the duration of the discharge;
- (b) the degree of culpability of the responsible person;
- (c) the damage caused from the discharge to the environment or human health;
- (d) the financial strength of the responsible person, taking into account, as appropriate, the annual world-wide turnover of the responsible legal person;
- (e) the economic benefits generated or expected to be generated for the responsible person from the infringement;
- (f) measures taken by the responsible person to prevent the discharge or mitigate its impacts;
- (g) the level of cooperation of the responsible person with the competent authority, including any action aiming to circumvent or obstruct an appropriate inspection or other investigation by a competent authority; and
- (h) any previous infringement by the responsible person.

2. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the criteria to be considered by Member States when applying penalties in respect of each type of polluting substance pursuant to this Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.;

1. Based on information reported by Member States in accordance with Article 10a, the Commission shall make publicly available a regularly updated Union-wide overview on the implementation and enforcement of this Directive. The overview shall include the information listed in Annex II to this Directive.

2. Without prejudice to Directive 2003/4/EC³⁹, the Commission shall take appropriate measures to protect the confidentiality of information obtained in implementation of this Directive.

(18) In order to increase public awareness in ship-source pollution discharges and improve environmental protection, information provided by the Member States on the application of

1a. (new) Member States shall 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.

2. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the criteria to be considered by Member States when applying penalties in respect of each type of polluting substance pursuant to this Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.;

1. Based on information reported by Member States in accordance with Article 10a, the Commission shall make publicly available a regularly updated Union-wide overview, ***including in disaggregated form, with data for every Member State***, on the implementation and enforcement of this Directive. The overview shall include the information listed in Annex II to this Directive. ***Information identifying an individual ship should only be made publicly available if all legal proceedings are finalised and there is no appeal.***

2. Without prejudice to Directive 2003/4/EC³⁹, the Commission shall take appropriate measures to protect the confidentiality of ***certain*** information obtained in implementation of this Directive.

Recital 18

(18) In order to increase public awareness in ship-source pollution discharges and improve environmental protection, information provided by the Member States on the application of

Directive 2005/35/EC should be made publicly available through a Union-wide overview and include the information listed in Annex II of Directive 2005/35/EC. Directive 2003/4/EC of the European Parliament and of the Council³⁰ aims to guarantee the right of access to environmental information in the Member States in line with the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention), to which the Union is a party. The Commission should protect the confidentiality of information received by Member States, without prejudice to the provisions of Directive 2003/4/EC.

³⁰ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

Directive 2005/35/EC should be made publicly ***available in a disaggregated form, with data for every Member State***, available through a Union-wide overview and include the information listed in Annex II of Directive 2005/35/EC. Directive 2003/4/EC of the European Parliament and of the Council³⁰ aims to guarantee the right of access to environmental information in the Member States in line with the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention), to which the Union is a party. The Commission should protect the confidentiality of information received by Member States, without prejudice to the provisions of Directive 2003/4/EC.

³⁰ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

Recital 19

(19) Directive (EU) 2019/1937 of the European Parliament and of the Council³¹ lays down minimum standards on reporting of breaches of Union law, including of Directive 2005/35/EC and for the protection of persons reporting such breaches. Member States should ensure, in particular, that crew under the scope of Directive (EU) 2019/1937 reporting actual or potential illegal discharges are granted protection. In addition to the existing reporting channels provided at national level as regulated under Directive (EU) 2019/1937, the Commission should make available a centralised online external reporting channel for reporting actual or potential illegal discharges and relay such reports to the Member State or Member States concerned, which should subsequently handle these reports in accordance with Directive (EU) 2019/1937, including with regards to

(19) Directive (EU) 2019/1937 of the European Parliament and of the Council³¹ lays down minimum standards on reporting of breaches of Union law, including of Directive 2005/35/EC and for the protection of persons reporting such breaches. Member States should ensure, in particular, that crew under the scope of Directive (EU) 2019/1937 reporting actual or potential illegal discharges are granted protection, ***adequate support and material means, where necessary***. In addition to the existing reporting channels provided at national level as regulated under Directive (EU) 2019/1937, the Commission should make available a centralised online external reporting channel for reporting actual or potential illegal discharges and relay such reports to the Member State or Member States concerned, which should subsequently handle these reports in accordance with Directive (EU)

acknowledgement of receipt, adequate feedback and follow-up. The Commission should ensure the protection of the confidentiality of the identity of reporting persons, including, where necessary, by restricting the exercise of certain data protection rights of persons concerned, such as of individuals included in the report as participating in the potential illegal discharge, in line with Article 25(1) points (c) and (h) and Article 25(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council³², to the extent and as long as necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons.

³¹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

³² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance) (OJ L 295, 21.11.2018, p. 39).

2019/1937, including with regards to acknowledgement of receipt, adequate feedback and follow-up. The Commission should ensure the protection of the confidentiality of the identity of reporting persons, including, where necessary, by restricting the exercise of certain data protection rights of persons concerned, such as of individuals included in the report as participating in the potential illegal discharge, in line with Article 25(1) points (c) and (h) and Article 25(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council³², to the extent and as long as necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons.

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Compromise 6, Verification quota, information exchange & training

Amendments covered/falling: 9, 20, 21, 22, 23, 24, 25, 26, 27, 88, 89, 90, 91, 92, 93, 95, 96, 97

Supported by: EPP, S&D, RE, Greens, ECR, Left

(d) within three years from the date of transposition of this Directive, ensure that

(d) within three years from the date of transposition of this Directive, ensure that

competent authorities verify at least 10% of the alerts sent by CleanSeaNet every year.

2. The Commission shall provide for the organisation of exchange of experiences between Member States' national authorities and experts, including those from the private sector, civil society and trade unions, on the application of this Directive across the Union, with a view to establish common practices and guidelines on the enforcement of this Directive.;

(13) The existing satellite-based service 'CleanSeaNet' which notifies Member States authorities on potential illegal discharges, should be further enhanced to include information on the additional polluting substances under the scope of Directive 2005/35/EC. Information relating to potential or actual discharges reported by Member States in accordance with Directive 2005/35/EC and to other Union maritime safety databases, such as the Union Maritime Information and Exchange System established by Directive 2002/59/EC of the European Parliament and of the Council²⁷ ('SafeSeaNet') and the Inspection Database set up by Directive 2009/16/EC of the European Parliament and of the Council²⁸ ('THETIS') should be integrated and disseminated in a user-friendly electronic format to the national

every Member State analyses thoroughly 100% and verifies on the spot at least 50% of the alerts received from CleanSeaNet every year. A Member State can remain below this 50% on the spot verification threshold, if it is able to demonstrate to the Commission, in the framework of the reporting foreseen in article 10a, that the thorough analysis of the imagery received from CleanSeaNet clearly revealed a false alarm, caused by, inter alia, algae or light reflexion, making a verification on the spot redundant. Responsible authorities shall 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.

2. The Commission, *where relevant via EMSA*, shall provide for the organisation of exchange of experiences between Member States' national authorities and experts, including those from the private sector, civil society and trade unions, on the application of this Directive across the Union, with a view to establish common practices and guidelines on the enforcement of this Directive.;

(13) The existing satellite-based service 'CleanSeaNet' which notifies Member States authorities on potential illegal discharges, should be further enhanced to include information on the additional polluting substances under the scope of Directive 2005/35/EC. Information relating to potential or actual discharges reported by Member States in accordance with Directive 2005/35/EC and to other Union maritime safety databases, such as the Union Maritime Information and Exchange System established by Directive 2002/59/EC of the European Parliament and of the Council²⁷ ('SafeSeaNet') and the Inspection Database set up by Directive 2009/16/EC of the European Parliament and of the Council²⁸ ('THETIS') should be integrated and disseminated in a user-friendly electronic format to the national

authorities involved in the enforcement chain in order to facilitate their timely response. Such information, when relating to an actual or potential discharge of Exhaust Gas Cleaning System residue from a ship, should further be automatically disseminated to the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253 ('THETIS-EU'), in order to assist Member States with enforcement actions undertaken in accordance with the provisions of Directive (EU) 2016/802. In order to ensure the effective monitoring of the Directive's implementation by all Member States, a verification rate of **10%** per year of the alerts sent by CleanSeaNet should be ensured by each Member State within the first three years from the transposition of this Directive. Access to this information should be granted to the authorities of other Member States having an interest in it under their roles as port States of the next port of call, coastal States affected by the potential discharge or flag States of the ship in order to facilitate effective and timely cross-border cooperation, minimise the administrative burden of enforcement activities and ultimately effectively penalise offenders for infringements of Directive 2005/35/EC.

²⁷ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

²⁸ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (recast) (OJ L 131, 28.5.2009, p. 57).

The Commission shall facilitate the development of capacities of Member States by providing, as appropriate,

authorities involved in the enforcement chain in order to facilitate their timely response. Such information, when relating to an actual or potential discharge of Exhaust Gas Cleaning System residue from a ship, should further be automatically disseminated to the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253 ('THETIS-EU'), in order to assist Member States with enforcement actions undertaken in accordance with the provisions of Directive (EU) 2016/802. In order to ensure the effective monitoring of the Directive's implementation by all Member States, a verification rate of **50%** per year of the alerts sent by CleanSeaNet should be ensured by each Member State within the first three years from the transposition of this Directive. Access to this information should be granted to the authorities of other Member States having an interest in it under their roles as port States of the next port of call, coastal States affected by the potential discharge or flag States of the ship in order to facilitate effective and timely cross-border cooperation, minimise the administrative burden of enforcement activities and ultimately effectively penalise offenders for infringements of Directive 2005/35/EC.

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²⁸ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (recast) (OJ L 131, 28.5.2009, p. 57).

The Commission *and EMSA* shall facilitate the development of capacities of Member States by providing, as

training to the authorities responsible for the detection, verification and enforcement of infringements under the scope of this Directive.

appropriate, training to the authorities responsible for the detection, verification and enforcement of infringements under the scope of this Directive.

Recital 11

(11) When a Member State suspects that a ship ***which is voluntarily*** within its port or at an off-shore terminal committed an illegal discharge, an appropriate inspection should take place to establish the circumstances. In order to assist Member States with their obligations under Directive 2005/35/EC to inspect such ships, Annex I to Directive 2005/35/EC provides an indicative list of irregularities or information that should be taken into account by competent authorities on a case-by-case basis when determining whether a ship should be considered suspect.

(11) When a Member State suspects that a ship within its port or at an off-shore terminal committed an illegal discharge, an appropriate inspection should take place to establish the circumstances. In order to assist Member States with their obligations under Directive 2005/35/EC to inspect such ships, Annex I to Directive 2005/35/EC provides an indicative list of irregularities or information that should be taken into account by competent authorities on a case-by-case basis when determining whether a ship should be considered suspect.

Recital 12

(12) The accompanying measures for cooperation and the reporting obligations of Member States have not been sufficient until now to allow a complete analysis whether polluters face effective, dissuasive and proportionate penalties and that adequate data is made available to the Commission to monitor the implementation of Directive 2005/35/EC. In order to ensure the effective and consistent enforcement of Directive 2005/35/EC, exchange of information ***and*** experience should be facilitated through enhanced cooperation, while at the same time ensuring that adequate data are made available to the Commission in order to allow the proper monitoring of the implementation of Directive 2005/35/EC.

(12) The accompanying measures for cooperation and the reporting obligations of Member States have not been sufficient until now to allow a complete analysis whether polluters face effective, dissuasive and proportionate penalties and that adequate data is made available to the Commission ***and EMSA*** to monitor the implementation of Directive 2005/35/EC. In order to ensure the effective and consistent enforcement of Directive 2005/35/EC, exchange of information, experience ***and best practices*** should be facilitated through enhanced cooperation, while at the same time ensuring that adequate data are made available to the Commission ***and EMSA*** in order to allow the proper monitoring of the implementation of Directive 2005/35/EC.

(14) The Sub-group on Waste from Ships, which was set up under the European Sustainable Shipping Forum, and which brought together a wide range of

(14) The Sub-group on Waste from Ships, which was set up under the European Sustainable Shipping Forum, and which brought together a wide range of

experts in the field of ship-source pollution and the management of waste from ships, was adjourned in December 2017 in view of the start of interinstitutional negotiations of Directive (EU) 2019/883. Since that temporary Sub-group provided valuable guidance and expertise to the Commission, a similar expert group should be created with a mandate of exchanging experience on the application of this Directive in order to assist Member States in building their capacity to detect and verify pollution incidents and ensure the effective enforcement of Directive 2005/35/EC.

experts in the field of ship-source pollution and the management of waste from ships, was adjourned in December 2017 in view of the start of interinstitutional negotiations of Directive (EU) 2019/883. Since that temporary Sub-group provided valuable guidance and expertise to the Commission, a similar expert group should be created with a mandate of exchanging experience on the application of this Directive in order to assist Member States in building their capacity to *prevent*, detect and verify pollution incidents and ensure the effective enforcement of Directive 2005/35/EC.

Compromise 7, Availability of IMO conventions

Amendments covered/falling: 1, 10, 15, 39, 105, 124, 125
Supported by: EPP, S&D, RE, Greens, ECR, Left

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| Recital 3a (new) | <i>(3a) While the overarching objective of this Directive is to transpose important amendments to the International Convention for the Prevention of Pollution from Ships ('Marpol 73/78') of the International Maritime Organization (IMO), in Union law, an up-to-date and complete text of Marpol 73/78 and its related annexes is not available on the IMO's website. This makes it burdensome for the sector, citizens and administrations to gain proper access to the text of Marpol 73/78 and other similar IMO conventions, and is an obstacle to full transparency and publicity in the IMO's work.</i> |
| Recital 3b (new) | <i>(3b) The European Commission and the Member States shall request at IMO level that full texts of all IMO conventions, including Marpol 73/78 and its related annexes, be made public on the IMO's website, accessible to all free of charge, at the latest by [OP: Please insert a date: one year from the date of entry into force of this amending Directive]. The IMO should thereafter regularly update the convention texts when required.</i> |
| Recital 3c (new) | <i>(3c) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission for including, if necessary and for information purposes, in an annex to this Directive the full text of Marpol 73/78 and its annexes referred to in this Directive, and for subsequently modifying that annex whenever required.</i> |

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| Article 10e (new) | <p>Public accessibility of Consolidated IMO Conventions</p> <p><i>If by [OP: Please insert a date: 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 shall adopt, within 3 months, a delegated act in accordance with Article 12b supplementing this Directive, with the full text of Marpol 73/78 and its annexes referred to in this Directive. The Commission is empowered to adopt delegated acts in accordance with Article 12b to amend that annex subsequently whenever required.</i></p> |
| Article 12b (new) | <p>Exercise of delegation</p> <p><i>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</i></p> <p><i>2. The power to adopt delegated acts referred to in Article 10e is conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes to such extension no later than three months before the end of each period.</i></p> <p><i>3. The delegation of powers referred to in Article 10e may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the powers specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</i></p> <p><i>4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.</i></p> <p><i>5. A delegated act adopted pursuant to Article 10e shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.</i></p> |

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