



The revised EU Environmental Crime Directive – what's new?

The new and revised EU Environmental Crime Directive (ECD) widens the scope of criminal offenses for damage to the environment. This article gives an overview of the main changes and implications for the maritime industry.

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On 20 May, the revised EU [Directive on the protection of the environment through criminal law](#) entered into force. The purpose of the revision was to contribute to more efficient protection of the environment, as the previous EU directive was thought to not be dissuasive enough.

Prior legislation

By way of a brief background, Directive 2008/99/EC was adopted by the European Parliament and the Council and in 2008. It outlined the general purpose of protecting the environment and decreasing the environmental crime levels in the EU.

Twelve years later, in 2020, an evaluation carried out by the Commission noted that “there are major deficiencies in all Member States and at all levels of the law enforcement chain preventing criminal environmental law from being effective”. Even though Member States had had several years to take appropriate measures, the evaluation revealed that not only was the directive not fully implemented, but there was also significant divergence in Member States’ application. As a result, criminal sanctions differed significantly between Member States.

It was decided that revision was necessary to achieve a level playing field between the Member States.

The revised Directive

The new and revised Directive aims to establish a framework that is similar in all EU member states and is designed to increase the effectiveness of investigation and prosecution of environmental crime across the EU.

The scope of the Directive is now also much wider, with the number of criminal categories increasing from 9 to 18. Of relevance to the shipping community, the offenses include:

- the ship-source discharge of polluting substances,
- ship recycling that does not comply with EU regulations,
- the introduction and dissemination of invasive alien species on EU territory,
- the illegal shipment of waste.

Additionally, the Directive calls on Member States to criminalize the incitement, aiding or attempt to commit any of the crimes above. The Directive also still includes corporate liability for specific pollutant behaviors.

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Tougher penalties

One of the goals of the revised Directive is to harmonize penalty levels across all Member States. It also seeks to establish minimum penalty levels, proportionate to the crime.

For natural persons, the maximum prison sentence is up to 10 years for offences which may have caused or are likely to cause death or serious injury. For legal persons, the minimum penalty should be no less than 3% of the total worldwide turnover of the corporation in the business year preceding the fining decision.

The revision also introduces certain ancillary penalties and measures for both natural and legal persons including obligation to rehabilitate polluted or damaged areas.

Obligations at a national level

Since the new Directive entered into force on 20 May 2024, Member States now have two years to take the necessary actions to incorporate the directive into their national laws.

Each Member State is obligated to present annual statistics that include the number of environmental crime cases reported as well as the respective national strategies for combating environmental offenses.

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