

Ship-source pollution: judicial cooperation to repress offences, criminal-law framework.

Framework Decision

2003/0088(CNS) - 25/10/2004

The Council discussed the text of the Framework Decision to strengthen the criminal law framework for the enforcement of the law against ship-source pollution, on the basis of a Presidency compromise text.

The debate in the Council focused mainly on the relation between the Framework Decision, MARPOL (Convention for the prevention of pollution from ships) and UNCLOS (UN Convention on the Law of the Sea), as well as on the possibility of introducing a ceiling for the maximum fines to be imposed on legal persons.

The Presidency, noting that three Member States could not agree to the text proposed by the Presidency, decided to forward the draft Framework Decision to the European Council. It should be noted that the fight against intentional or negligent ship-source pollution is among the European Union's priorities. The conclusions of the Copenhagen European Council of 12 and 13 December 2002 (points 32 to 34) and the statement of the JHA Council of 19 December 2002 following the shipwreck of the tanker Prestige, in particular, express the Union's determination to adopt all the measures needed to avoid recurrences of such damage.

To this end, the Council adopted a Common Position on a draft Directive on ship-source pollution and the introduction of sanctions for infringements. The main principle of the draft Directive is that all discharges of polluting substances are considered infringements if they are committed with intent, recklessly or through serious negligence. It allows Member States to take the necessary measures to ensure that these violations are subject to effective, proportionate and dissuasive sanctions which may include criminal or administrative sanctions.

With a view to supplementing these provisions, there should be an approximation of, among other things, the level of penalties corresponding to the seriousness of offences in relation to the natural or legal persons who commit them or are liable for them.