

INFORMATIVE BULLETIN ON

POLLUTION OF MARINE ENVIRONMENT IN GREECE

Penal Sanctions and Administrative Fines

1. Legal Regime

Matters relating to pollution of marine environment have been traditionally regulated in Greece by the **Law 743/1977** of 17.10.1977, on the Protection of Marine Environment, as codified by **Presidential Decree 55/1998** of 20.03.1998, which remain in force even until today.

By virtue of **Presidential Decree 108/2019** of 09.12.2019, the upper limits of administrative fines, as determined by said **Presidential Decree 55/1998** have been substantially increased.

On a European level, the European Union introduced legislation on ship-source pollution and on penalties for such infringements, with the **Directive 2005/35/EC** of 7 September 2005. This was amended by the **Directive 2009/123/EC** of 21 October 2009.

The Hellenic Republic incorporated the provisions of the above two (2) Directives into the Hellenic legislation by virtue of **Law 4037/2012** of 30.01.2012, according to which the discharge of pollutant substances into the sea will be subject to both penal sanctions and administrative fines, as it had been already provided in **Presidential Decree 55/1998**.

In addition, by virtue of very recent **Presidential Decree 113/2019** of 31.12.2019, the administrative fines for infringement of the above **Law 4037/2012** on ship-source pollution have been accordingly increased, to coincide with the increases provided in **Presidential Decree 108/2019**.

The applicable legislation is listed in Appendix A, whereas its basic provisions follow hereunder:

2. Definition of Pollution

PD 55/1998: The presence in the sea of any substance, which alters the natural state of seawater or renders same harmful for human health or for fauna and flora of the seabed and generally unsuitable for its intended uses.

Law 4037/2012: The discharge of pollutant substances (oil or noxious liquid substances) from ships, resulting in the degradation of seawater quality.

3. Obligations of the polluter

In the event of pollution or potential risk of causing it, the Master (or the ship's representative, i.e. agent) should:

- Report immediately the incident to the competent Port Authority;
- Take any appropriate measures to prevent, restrict and respond to the pollution;
- Comply with existing plans for pollution response (follow Authorities' orders);
- Award immediately anti-pollution operations to recognized pollution response companies (in case ship's crew would be unable to take the necessary antipollution measures);
- If delays are encountered in dealing with the pollution incident, the Master will be in addition liable for the consequences of such delay.

4. Authority's reaction to a pollution incident

In cases of a pollution incident or apparent and imminent risk of pollution, the Authority:

- Takes all appropriate measures to prevent, limit and eliminate the consequences of the pollution;
- Orders the Master / Shipowner via the Agents to take necessary measures for eliminating the consequences of the pollution;
- Requests the assistance of organizations or private enterprises having experience and means to deal with such incidents;
- Coordinates and controls private resources utilized;
- **BUT**, the Authority does not bear the costs involved, which are to be covered by the ship or whoever in any way caused the pollution.

5. Criminal Sanctions

- The person who is arrested in the act of committing the offence (pollution), is subject to trial *in flagrante delicto*.
- Authorities initiate investigation, as part of which, crew statements are given (sworn or without oath). On completion of investigation, the Public Prosecutor decides whether criminal charges will be pressed and against whom.
- Normally, a criminal hearing before the competent Court is set for a future date and the accused are free to return onboard.
- Competent Court is considered the court of the place where the pollution occurred or the court of vessel's destination. In the event of pollution occurring in the open sea, competent court will be the courts of Piraeus.
- The engagement of a lawyer is necessary.

The criminal sanctions in relation to pollution incidents, which are currently in force, are summarized as follows:

A	In case the severity of the pollution poses risk of death or serious injury or widespread environmental disturbance or destruction:	Imprisonment up to ten (10) years and fine ranging from €3,000 to €300,000
B	In all other cases:	Imprisonment for at least one (1) year and fine ranging from €1,500 to €50,000
C	For cases as above A, when pollution is caused by negligence:	Imprisonment for at least six (6) months and fine ranging from €1,000 to €15,000
D	For cases as above B, when pollution is caused by negligence:	Imprisonment for at least three (3) months and fine ranging from €200 to €3,000
E	Reoccurring, small scale pollution incidents, which cumulatively cause degradation of the marine environment:	Imprisonment for at least six (6) months and fine ranging from €1,000 to €15,000
F	For cases as above E, when pollution is caused by negligence:	Imprisonment for at least three (3) months and fine ranging from €200 to €3,000

If the committer of the above mentioned violations takes steps to substantially restrict the pollution or contributes to the substantial reduction of the negative effects of pollution or degradation of sea water quality, with a timely notification to the Authorities, **the court may impose a reduced sentence, or to exempt him from any sentence.**

6. Administrative Sanctions

On the administrative side:

- The Authority summons the offender to provide his written plea within 24 hours from serving of the summons. The deadline is normally extended to 5 days.
- Polluters of sea or coast are punished with a fine, by a reasoned decision of the competent Authority.
- Those who do not take the appropriate measures to prevent, restrict or combat the pollution, even if no pollution has been caused, are also punished with a fine of the same amount.
- Until the fine is paid, **the ship is detained and her sailing prohibited**. The detention can be lifted after depositing to the Authority of a Bank Letter of Guarantee (BLG), equal to the amount of fine imposed or to the estimated amount of the fine.
- The only form of security acceptable to the Authorities is the BLG. Authorities **do not accept a Letter of Undertaking** issued by the vessel's P&I Club, instead of the BLG.

Note: Experience has shown that under certain circumstances (e.g. weekends), the Authority may accept a bank cheque in the amount of the fine instead of a BLG, for allowing the ship to depart, on the condition that this will be replaced with an equivalent BLG as soon as this becomes feasible (e.g. after few working days).

The upper levels of administrative fines in relation to pollution incidents, which are currently in force, are summarized as follows:

A	In cases of degradation of sea water quality:	Up to €100,000
B	In cases of serious pollution, i.e. cases that are deemed to have a serious detrimental effect to the marine environment:	From €100,000 up to €2,000,000
C	In addition to the above, when pollution has been intentionally caused for the benefit of a legal entity (company):	Up to €800,000
D	In case of continued pollution, daily fine for exceeding the deadline set by Authorities, for restoration of marine environment	€15,000 per day

7. Securing of State Demands

In cases where the Hellenic Coast Guard have been involved in the antipollution operation, engaging their own means:

- The cost for personnel, means, equipment, material used by the Hellenic Coast Guard, for responding to the pollution incidents is based on a tariff published in the Governmental Gazette;
- For securing demands related to pollution combatting operation, the ship may be detained;
- The detention may be lifted and ship allowed to sail out in case a Bank Letter of Guarantee (BLG) is lodged;
- A Letter of Undertaking (LOU) by vessel’s P&I Club **is accepted in this case, instead of the BLG.**

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Kalimbassieris Maritime

65, Akti Miaouli, 185 36 Piraeus, Greece

Tel: +30 210 4294444

Fax: +30 210 4294443

E-mail: pir.maritime@kalimbassieris.com

APPENDIX A

National Legislative Framework in Relation to Pollution

By chronological order

- **Law no. 743 – Gov. Gazette 319/A/17.10.1977**
For the Protection of Marine Environment and Adjustment of Related Matters
- **Presidential Decree no. 55 - Gov. Gazette 58/A/20.03.1998**
Protection of Marine Environment (Codification of Law 743/1977)
- **Presidential Decree no. 163 - Gov. Gazette 146/A/03.07.2001**
Increase of Upper Limits of Administrative Sanctions, Imposed for Violations of the Provisions of Law 743/1977, as it was Codified by P.D. 55/1998
- **Presidential Decree no. 11 - Gov. Gazette 6/A/21.01.2002**
National Emergency Plan to Deal with Oil Pollution Incidents and other Harmful substances
- **Law no. 4037 Gov. Gazette 10/A/30.01.2012**
For the adaptation of Greek legislation to the provisions of European Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005, concerning pollution from ships and introduction of sanctions, including criminal sanctions, for pollution offenses (L255), which was amended by Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 (L280) and other provisions
- **Ministerial Decision no. 532.1-01 – Gov. Gazette 1338/B/24.04.2012**
Determination of the Cost for Using Materials, Means and Personnel of Coast Guard in Dealing with Marine Pollution Incidents – *For personnel rates*
- **Ministerial Decision no. 2262.1/131/2015 – Gov. Gazette 1811/B/21.08.2015**
Amendment of Decision no. 3221.2/4/99/23-6-199 of Ministry of Merchant Shipping on “Determination of the Cost for Using Materials, Means and Personnel of Coast Guard in Dealing with Marine Pollution Incidents”, as applicable – *For rates of means, equipment, etc*
- **Common Ministerial Decision 128/2016 – Gov. Gazette 3958/B/09.12.2016**
Harmonization of Greek Legislation to Directive (EU) 2016/802 of the European Parliament and the Council of 11 May 2016 “on the reduction of the sulphur content of certain liquid fuels”
- **Presidential Decree no. 108 – Gov. Gazette 196/A/09.12.2019**
Increase of upper limits of administrative sanctions imposed for infringements of Law 743/1977, as codified by PD 55/1998
- **Presidential Decree no. 113 – Gov. Gazette 218/A/31.12.2019**
Increase of upper limits of administrative fines imposed in accordance with Law 4037/2012