

## THE PROTECTION OF VESSELS AND PORTS AGAINST TERRORISM

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**Abstract:** *The international debate in recent years emphasized the need to develop cooperation between all international environmental institutions, aiming to increase their effectiveness in the fight against pollution. A mixed system is recommended, combining contractual assessment with individualized repair, based on certain thresholds, whose only model is the U.S. state of Alaska.*

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Vessels, people, infrastructure, environment and trade may be affected by acts of terrorism or piracy. Therefore, the European Union set in 2004 certain mandatory standards to enhance the security of vessels and ports.

Each vessel intending to enter a port of a Member State should provide to the next port of call, 24 hours before or after leaving the previous port of call, if the trip duration is less than 24 hours, information about vessel and cargo safety.

Furthermore, the EU adopted a directive in October 2005 by means of which Member States are required to prepare security plans to strengthen port security, and the Commission is empowered to conduct inspections in order to verify the effectiveness of these plans.

The current deterioration of the marine environment and the erosion of its ecological capital are threatening the creation of prosperity and employment opportunities for Europe's oceans and seas.

The objective of the Directive - the Framework on the marine environment strategy- is to restore the ecological balance of oceans and seas, through achieving and maintaining "their good ecological status". Given the diverse conditions and problems of the marine environment in the EU, it establishes the European Marine Regions on the basis of geographical and environmental criteria.

There will be no specific management measure set at EU level. The Directive offers an integrated policy framework taking into account all pressures and impacts, setting clear and operational actions in order to better protect the marine environment. The directive should be functional and implemented in the maritime regions [1].

The strategies are based initially on the assessment of the environmental state, in order to develop the policies supported by the best available scientific knowledge. In a second stage, each Member State, in close cooperation with the other Member States and with the relevant third countries within a marine region, will develop and implement their own strategies for the marine environment, in order to achieve a "good ecological status" . In developing marine strategies, Member States will be encouraged to work within the existing regional seas conventions – OSPAR for the Northeast Atlantic, HELCOM for the Baltic Sea, the Barcelona Convention for the Mediterranean Sea and the Bucharest Convention for the Black Sea.

The Directive on the marine environment strategy is included in the Sixth Environmental Action Programme adopted in 2002. The Directive should also be considered in the broader development of a new EU maritime policy announced in the Green Paper entitled *Towards a future maritime policy for the Union: A European vision on oceans and seas, adopted by the Commission on June 7, 2006*. The Framework Directive proposed for the Marine Environment Strategy will constitute the ecological pillar of the future EU maritime policy.

The assessment methods and those of redressing ecological damage, dealing with different national laws, are manifestly improvable.

Thus, the rebound to the situation previous to prejudice occurrence is often only an illusory goal; it can

become effective if the possibilities to realize it and the control means are well determined [2].

Starting from scales establishing the monetary value of the protected species, the contractual systems of assessment and repair of the environmental damage have many advantages, being relatively easy to apply and bring an element of certainty, both for nature protection authorities and for the perpetrators of damage and their insurers, in a land still belonging to scientific uncertainties.

On the other hand, these contractual assessment methods are, in some cases, too rudimentary to be a valid basis for assessing damages.

A mixed system is recommended, combining contractual assessment with individualized repair, based on certain thresholds, whose only model is the U.S. state of Alaska.

In this respect, we can imagine a system that takes into account the causes of the environmental damage, the affected areas, the type of the degraded ecosystem and its relative rarity, biological diversity, the time necessary to the natural regeneration (if possible), its original condition and the current one (if known). However, to the costs for restoring the previous state, another cost can be added – the *pretium doloris* – for the damage brought to the natural environment, provided that the amount of money is spent for conservation works and environmental protection.

This is also necessary because environmental damage is related, in fact, to an inextricable right linked to the fundamental human rights (such as the right to life and health, but also the right to information and participation) [3].

As a result, marine environmental protection should be achieved through the rational use of natural resources, by preventing and combating pollution of all kinds and the harmful effects of natural phenomena.

Aquatic environmental degradation is the most aggressive factor currently involved in reducing both the quality and duration of life.

The Convention on the Civil Liability for Nuclear Damage from Vienna [4] includes common and complex principles which apply equally to nuclear facilities and during the transportation of nuclear materials.

According to the Convention, no nuclear accident undertakes the nuclear liability regime, unless it is about nuclear fuel or radioactive waste or products, as expressly provided by the Convention.

Given the issues presented in Art. 6 of the Vienna Convention and knowing that the effects of environmental damage often occur in time, we come with a law proposal in order to eliminate the limit for taking action and we consider that the termination of the right to damage reparation should not be eliminated if proceedings were instituted; the effects of nuclear accidents are felt after decades and according to the basic principle of environmental law, the polluter pays, the person who degrades the environment must pay for the damages, knowing that most times, environmental damage cannot be monetarily assessed.

Thus, the development of an appropriate legislation in order to allow the maintenance and preservation of

knowledge, the innovations and practices of indigenous and local communities with traditional lifestyles, and the provision of financial support or any other support to avoid the environmental harm are deemed necessary.

The international debate in recent years emphasized the need to develop cooperation between all international environmental institutions, aiming to increase their effectiveness in the fight against pollution [5].

Most reputable environmental analysts warned that "environmental protection can be achieved only through a sector approach"; the effectiveness in this area involves "the concerted action at global level of all factors which the environmental protection depends on" [6].

Given that the effects of pollution extend on long and very long terms, and that sometimes they have unpredictable consequences, it was natural for the International Maritime Organization to notice and adopt a series of measures to compel the enforcement of several constructive restrictions and to impose several "clean" activities.

Furthermore, national governments also have aligned to these very large coercive measures.

The crew who is directly involved in activities at sea should be aware of the need to respect all international and national conventions and regulations relating to pollution, especially due to the fact that the restrictive measures range from consistent and very consistent fines to prison on sometimes long terms.

An intensive exploitation of all marine biological and mineral resources and the different uses of the marine environment immediately raise the problem of pollution of the seas and oceans and of the fight against them.

A number of factors indicate that we are still in a transitional period between industrial civilization, with an essentially continental character and a new era that will translate into a real coastal and marine revolution, through the development all types of activities, on sea and ocean coasts and within the marine environment: industrial uses, multiple exploitation of marine resources, aquaculture etc.

This development must quickly seek reconciliation between the valorization of oceans and marine environment protection and the protection of its resources against degradation, reduction and pollution.

This explains the promptness with which our country was aligned, in legal terms, to the regulatory requirements of the international community.

This accounts for the honorable effort to meet these goals and regulations concerning the exploitation of planet waters, as ultimately we are a country with traditions in shipping, and in particular of the Black Sea.

We chose this theme in order to demonstrate that beyond the political excesses previous to 1990, a certain rationality of the legal creation remained constant, despite a central decision which does not always obey the commands of historical necessity.

Also, in the sense of a law proposal, we ought to create a special unit (such as those known as Coast Guard) charged with only the supervision, inspection and finding of vessels, being assigned only the tracking task (Hot Pursuit).

Finally the disjunction of the jurisdiction between the Harbor master's office and the Agency for Environment Protection may create confusions, extensions of or withdrew from jurisdiction with negative effects on committing the act of jurisdiction. We believe that only one authority should be empowered in order to ensure the protection of the marine environment against pollution.

We do not believe that pollution will be stopped only because regulations will severely incriminate it. No homicides or other serious crimes have been eradicated, although, for a long time, Criminal Codes foresaw the death penalty conviction.

A small but real triumph in this regard would be represented by deterring the perpetrators. The rest depends only on the Darwinian human ability to adapt or die in the fight against our own toxins.

This requires education and training programs for scientific and technical research, in order to promote and encourage the use of scientific progress on the assessment of environmental damage and the protection in all important areas.

The deterioration of the marine environment and the erosion of the ecological capital of this ecosystem are threatening the creation of prosperity and the sustainable development of the Black Sea. If we do not pull the alarm on the problems faced nowadays by the Black Sea ecosystem, this trend will threaten its very existence.

The Black Sea is an almost closed sea and it deserves a special attention because large quantities of Russian oil are being transported on it, and also due to the overall increase in traffic and the phenomenon of eutrophication (growing in recent years) coming from terrestrial sources and rivers.

## REFERENCES

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