

MARINE ENVIRONMENT IN THE ROMANIAN LEGISLATION

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ABSTRACT

In the overall context of sustainable development, shipping is a very powerful and positive force, making a major contribution to global trade and prosperity in a way that has only a relatively small negative impact on the global environment. Prevention, reduction and control of marine pollution caused or is linked to the activities of the internal waters, the territorial sea, the exclusive economic zone and the atmosphere above shall be carried out in accordance with the Romanian legislation and Conventions to which Romania is a party.

Keywords: *environment, marine, pollution*

1. INTRODUCTION

By marine pollution means the introduction by any person or entity, directly or indirectly, of substances or energy into the marine environment when it has or may have deleterious effects such as harm to living resources, marine living resources, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality of sea water in terms of its use and degradation of its recreational values. Competent Romanian authorities set standards and take action to protect and preserve the marine environment and the prevention, reduction and control of marine pollution in relation to maintaining the safety of navigation and protection of the region concerned and ensure compliance and enforcement in ports in internal waters, territorial sea and exclusive economic zone of Romania.

Measures taken to prevent pollution of the marine environment include the following limitation:

- a) release of toxic, harmful or noxious substances, especially degraded from land-based sources, from or through the atmosphere or atmosphere by immersion ;
- b) pollution from vessels, in particular measures for preventing accidents and to cope with emergencies, ensuring the safety of operations at sea, to prevent spills, whether intentional or not, and to regulate the design, construction, equipment and operation of ships and composition/structure affected their staff
- c) pollution from installations and devices used in exploration or exploitation of natural resources of the seabed and its subsoil, in particular measures for preventing accidents and to cope with emergencies, ensuring the safety of operations at sea and regulating the design, construction, equipment and operation of these facilities and devices and composition/structure affected their staff ;
- d) pollution from other installations and devices operating in the marine environment, applying measures to prevent accidents and to cope with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment and operation of such plant and equipment and composition/structure affected their staff.

Measures taken under the provisions of this chapter apply and those measures necessary to protect and preserve rare or fragile ecosystems as well as the living environment of the species and marine organisms whose numbers are declining, threatened or endangered. Is prohibited under the laws in force, pollution of any kind of internal waters, territorial sea and exclusive economic zone and the atmosphere above it, by any manner or means, such as dumping, throwing, sinking or release of the vessel or other floating plants, submerged or fixed on the aircraft and the sources located on the shore of substances or non-degradable waste, toxic, radioactive, oil and other harmful substances harmful or hazardous to human health or to the flora and fauna of the sea, or other residues or materials can cause damage Romanian shore or create barriers to legitimate use of the sea. Where there is evidence that a vessel used for commercial purposes, which lies in the internal waters, territorial sea or exclusive economic zone of Romania or Romanian legislation violated international rules on the prevention, reduction and control pollution of the marine environment by dumping or discharge of wastes or non-degradable substances, toxic, radioactive, oil and other harmful substances harmful or hazardous to human health or the flora and fauna of the sea, which have occurred or may occur, pollution risks and damage to shoreline Romanian or Romanian state interests or any resources of its interior maritime waters, territorial sea or exclusive economic zone, the competent Romanian authorities have the right to legal action in connection with the breach, the under Romanian law, and order, subject to international law and whether the evidence warrants, detention. If a foreign vessel used for commercial purposes is a Romanian port or at an offshore terminal, Romanian competent authorities may initiate legal proceedings in connection with any breach made by the ship and if the ship is in the internal waters, territorial sea, the contiguous zone and the exclusive economic zone of Romania, can be tracked and retained in accordance with the law.

If the internal waters, territorial sea or exclusive economic zone of Romania is a collision of ships, stranding or other maritime emergency and actions related to such an event may have harmful consequences for the environment and marine fauna as well as internal waters, territorial sea, exclusive economic zone or the

Romanian coast, the competent Romanian authorities are entitled to take the necessary steps, corresponding to the actual loss or the threat they represent in order to protect from pollution or threat of pollution, and to ensure that these measures beyond the territorial sea .

The sinking of waste in the territorial sea, exclusive economic zone or continental shelf Romania Romania as defined in art . 76 of the UN Convention on the Law of the Sea, can not take place without the prior express consent of the competent Romanian authorities.

They have the right to authorize, regulate and control the dive, after duly considered the matter with other States for which this can dive due to their geographical situation, to cause, damage by pollution to them and their environment.

2. POLLUTION PREVENTION. METHOD OF IMPLEMENTATION

Prevent, limit and control the negative effects of human activities on the environment have imposed specific development of administrative techniques and classic new ones (special), headed by a system of permits, approvals and authorizations, to determine the extent to which pollution is allowed or prohibited.

This requires the establishment of restrictions, different in nature and content, and to establish conditions for the activities with possible negative impact on the environment, corresponding implications for the exercise of certain fundamental rights, led by property rights, free enterprise or the right to use the common goods (water, air, etc.), on behalf of overriding public interest environmental and basic human right to a healthy environment. States shall take, individually or jointly as appropriate, all measures which are necessary to prevent, reduce and control pollution of the marine environment, whatever its source.

They will use for this purpose, means best adapted for disposal, according to their means, and shall endeavor to harmonize their policies in this connection.

States shall take all measures necessary to ensure that activities under their jurisdiction or under their control to be conducted in such a way as not to cause, damage by pollution to other States and their environment, such as pollution from incidents or activities under their jurisdiction or control do not extend beyond the areas where they exercise sovereign rights in accordance with the Convention.

Action is all sources of marine pollution.

They include, in particular, measures that tend to limit as much as possible:

- a) release of toxic, harmful or noxious, especially non-degradable substances originating from land based sources, from or through the atmosphere atmosphere or immersion;
- b) pollution from vessels, in particular measures for preventing accidents and to cope with emergencies, ensuring the safety of operations at sea, to prevent spills, whether intentional or not, and regulating the design, construction, equipment and operation of ships and their component affected staff ;

c) pollution from installations and devices used in exploration or exploitation of natural resources of the seabed and subsoil, in particular measures for preventing accidents and to cope with emergencies, ensuring the safety of operations at sea and regulating the design, construction, equipment and operation of these facilities and devices and their component affected staff ;

d) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and to cope with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment and operation of these facilities and devices and their component affected staff.

When taking measures to prevent, reduce and control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and obligations in accordance with the provisions convention.

Measure taken under this part include measures necessary to protect and preserve rare or fragile ecosystems as well as the living environment of declining species and marine organisms, threatened or endangered .

When taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another and not one type of pollution into another.

States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of techniques within their jurisdiction or under their control, or the introduction, intentionally or accidentally, in a marine area of alien or new species which may cause significant and harmful changes to it. Each Party shall require that ships entitled to fly its flag to possess on board an emergency plan for combating oil pollution, as required and to this end the provisions adopted by the Organization in accordance with them.

A vessel must have on board an emergency plan to combat oil pollution under subparagraph a) is subject, as long as it is in a port or terminal in the sea under the jurisdiction of a Party, control officers duly authorized by that Party for this purpose according to the practices set out in existing international agreements or national law.

Each Party shall require that operators of offshore units under its jurisdiction possess plans for combating oil pollution, to be coordinated with the national system established in accordance with art. 6, and approved in accordance with procedures established by the competent national authority.

Each Party shall require that authorities or operators in the service of these sea ports and oil handling means , within its jurisdiction, as appropriate, to possess plans for combating pollution by oil or similar arrangements, to be coordinated with the national, and approved in accordance with procedures established by the competent national authority.

3. RESPONSIBILITIES OF THE MASTER AND OFFICERS ON BOARD TO PROTECT THE MARINE ENVIRONMENT

According to the Minister of Public Works, Transport and house no. 1730/2001 on the approval of incident reporting in involving ships carrying dangerous goods, substances harmful and/or marine pollutants:

Captains of ships carrying dangerous goods, harmful substances or marine pollutants in packaged form in Bulk or involved in an incident in waters under the jurisdiction of Romania or Romanian ports and masters of ships flying the Romanian flag, involved in a incident outside the waters under the jurisdiction or outside Romania Romanian ports are required to write and report compliance with the requirements of this order.

The reports provided for must be submitted as follows:

1. If an incident occurs in waters under the jurisdiction of Romania, the master involved you must immediately notify the operator of communications service call, danger and rescue by the coast radio station, at least one of the frequencies assigned call communications, danger and rescue of 500 KHz, 2182 KHz or 156.800 MHz.
2. If an incident involving a ship flying the Romanian flag outside waters under Romanian jurisdiction, the report should be made to the nearest coastal State through appropriate coast radio station. If the incident affects the safety of navigation, the report will be preceded by a call of danger, and if the incident affects the safety of the ship or persons, to an emergency call.
3. If the vessel is in the vicinity of coastal radio stations medium frequency (MF) and very high frequency (VHF), the report must be done to the nearest coastal radio station High Frequency (HF) or maritime satellite communications system
4. If the vessel is in or near an area that was established a system for reporting by ships, the report must be sent to the designated body responsible for the operation of that system.
5. Reporting format and reporting procedures must comply with the requirements of section 2 of the "standard reporting format and procedures" of the Annex to this order.
5. Addition to reports made according to item 1, when the incident occurs in the handling of hydrocarbons terminal, the terminal operator also needs to report the incident:

- a) as soon as possible and using the most rapid means to the Harbor Master in whose area of activity is terminal;
- b) if possible, in accordance with the provisions of section 2 of the Annex to this order.

For communication coastal radio station reports do not charge fees.

The reports should contain specific information included in section 3 "Detailed reporting requirements" Annex to this order. In drawing up reports will use terms and concepts specific requirements of the IMDG Code, IBC Code and IGC Code INF Code.

The provisions of the Annex to this Order shall not apply messages danger referred to in regulation V / 2 of SOLAS.

The details are not immediately available to be sent in a supplementary report.

In the case involving harmful substances and/or marine pollutants, additional report must follow immediately or as soon as possible after the initial report.

The additional report must include information that is essential for the protection of the marine environment, according to the incident. Such information shall include the letter. P, Q, R, S and X, has as provided in section 2 of the Annex to this order.

The probability of a discharge resulting from damage to the ship or its equipment as a reason to make a report.

In order to determine whether there is such a probability, and if it is necessary to report, to be taken into account, among others, the following factors:

1. Nature damage, deterioration or malfunction of ships, installations or equipment;
2. Sea state and weather conditions and traffic density in the area at the time and place of the incident.

The master of the ship shall report at least the following cases:

1. Damaging, deterioration or damage affecting the ship's safe, produced as a result of incidents such as collision, aground, fire, explosion, structural damage, flooding, cargo shifting; and
2. Failure of plant or equipment which results in impaired vessel navigation safety, produced as a result of incidents such as failure of the steering system, propulsion plant, the power generation system (electric generator), naval means essential shipping insurance.

If a vessel is engaged or both are required to be engaged in an operation to provide assistance or rescue of a vessel involved in an incident referred to in art. II, paragraph. 1 lit. a) or b) of Protocol I of MARPOL 73/78, the master shall report without delay saving features action taken or planned.

The report should include letters. A, B , C (and D) , E, F, L, M, N, P, Q, R, S, T, U and X.

Saving master must ensure that the coastal State is informed of the action's rescue. Failure to comply with this order by masters Romanian maritime flag is action indiscipline and sanctioned in accordance with the law.

Failure to comply with this order by masters of ships flying the flag of another State, in the waters under the jurisdiction of Romania, determined by port captains will be notified to the NRA authority that issued patent that command and authority which granted the right to fly its flag ship involved. In particularly serious cases, the competent Romanian authorities may, as a complementary, seizure of ships, installations, gear, apparatus and other items from the offender, in committing the offense used.

Property acquired by committing the offense shall be confiscated. Penalties also apply to legal persons.

No contravention facts provided, if committed in order to ensure safety of navigation or ship or saving life times in order to avoid damage to the ship or cargo.

Offences and penalties shall be established in accordance with the regulations for staff supervision and control of the navigation of the Ministry of Public Works, Transport and Housing, special personnel authorized by the Minister of National Defence, Minister

of Interior, Minister of Water and environmental protection, the Minister of Agriculture, food and Forestry and the Minister of Health and others specifically authorized by law. Fines for offenses not exempt the offender from the obligation to pay compensation for the damage caused by land, internal waters, territorial sea and exclusive economic zone of Romania, according to Romanian law.

Fines imposed on individuals or legal entities shall be paid in convertible currency by converting fines of USD currency at the official exchange rate from the time of committing the offense.

Against the contravention report may be submitted within 15 days of notification, the Department of Marine and river to Court Constanta.

The offenses are applicable Government Ordinance no. 2/2001 on the legal regime of contraventions.

4. CONCLUSIONS

Shipping – which transports 90 per cent of global trade – is, statistically, the least environmentally damaging mode of transport, when its productive value is taken into consideration. The vast quantity of grain required to make the world's daily bread, for example, could not be transported any other way than by ship. Moreover, set against land-based industry, shipping is a comparatively minor contributor, overall, to marine pollution from human activities.

IMO's original mandate was principally concerned with maritime safety. However, as the custodian of the 1954 OILPOL Convention, the Organization, soon after it began functioning in 1959, assumed responsibility for pollution issues and subsequently has, over many years, adopted a wide range of measures to prevent and control pollution caused by ships and to mitigate the effects of any damage that may occur as a result of maritime operations and accidents.

These measures have been shown to be successful in reducing vessel-sourced pollution and illustrate the commitment of the Organization and the shipping industry towards protecting the environment.

Of the 51 treaty instruments IMO has adopted so far, 21 are directly environment-related or 23, if the environmental aspects of the Salvage and Wreck Removal Conventions are included. The Marine Environment Protection Committee (MEPC) is IMO's senior technical body on marine pollution related matters. It is aided in its work by a number of IMO's Sub-Committees. Environmental legal issues are so complex and complicated that hardly will soon find a safe solution, theoretical and practical, in all its aspects.

For this reason, the activities aimed at environmental protection to be successful, must be implemented and scientifically legal institutions related to these activities, including the concept of ecological damage.

Environmental policy based on social support of the majority, there can be no real and thorough assessment of the situation and without knowing the society.

And it even more today as environmental pollution negatively affects the economic and social activity around.

Therefore, it is necessary scientific research and thorough knowledge of each legal institutions, including the concept of ecological damage, which makes accurate and fast compensation of environmental damage caused by pollution.

In the right environment for expressing environmental damage caused by pollution, sometimes uses the phrase "environmental damage" or "environmental damage", which includes both suffered pollution damage to the natural environment, as well as those incurred by the person or property other than the natural environment.

In the event of acts for which Romanian law provides for the arrest or detention of its foreign master, the competent Romanian authorities will immediately notify consular or diplomatic mission of the flag State measures taken.

Detained ship and crew will be released as soon as the appropriate bail, according to the legal regulations in force.

Bail will be set at USD and will be paid in convertible currency by converting the sum of USD currency at the official exchange rate at the time of committing the offense.

Bodies of the Ministry of National Defense and the Ministry of Interior will enforce the law and will assist other State institutions to the application of coercive measures against foreign ships in the territorial sea and the exclusive economic zone of Romania, under the present law.

Environmental goals and improving environmental conditions can only be achieved within the actual process of social and economic development, which needs specific regulatory means based on the discovery of correlations, which can influence the evolution. Environmental policy based on social support of the majority, there can be no real and thorough assessment of the situation and without knowing the society. And it even more today as environmental pollution negatively affects the economic and social activity around.

Therefore, it is necessary scientific research and thorough knowledge of each legal institutions, including the concept of ecological damage, which makes accurate and fast compensation of environmental damage caused by pollution.

5. REFERENCES

- [1] Order no. 1730 of November 16, 2001 on the approval of reporting incidents involving ships carrying dangerous goods, harmful substances and / or marine pollutants, *Published in Official Gazette no. 115 of 12 February 2002*
- [2] Ordinance 2 of 12 July 2001 privind legal regime of contraventions. *Published in Official Gazette no. 410 of 25 July 2001*