

WRITTEN QUESTION E-5970/07

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to the Commission

Subject: Criminal penalties against ship-source pollution

The fight against ship-source pollution caused with intent or by serious negligence is one of the Union's priorities, as demonstrated following the wrecking of the oil tanker Prestige off the Galician coast. Accordingly, Article 4 of Directive 2005/35/EC¹ lays down that Member States are to ensure that ship-source discharges of polluting substances are regarded as infringements if committed with intent, recklessly or by serious negligence, and that they are to be regarded as criminal offences in accordance with the supplementary provisions of Council Framework Decision 2005/667/JHA².

The judgment of the Court of Justice of 23 October 2007 in Case C-440/05 annulled the Framework Decision because it was adopted under the third pillar (police and judicial cooperation between governments in criminal matters), when Community rules imposing an obligation on Member States to institute criminal penalties against certain forms of conduct which are likely to cause particularly serious environmental damage as a result of the infringement of the Community rules on maritime safety could have been adopted under the first pillar. Without prejudice to the above, the judgment points out that the determination of the type and level of criminal penalties does not fall within the Community's sphere of competence.

Bearing in mind that the controversy is confined to the legal bases used to achieve the completely valid objective of imposing criminal penalties against ship-source pollution, and this objective can be achieved through Community action and cooperation among the Member States, what is the situation in the various Member States regarding the imposition of criminal penalties against ship-source pollution? Will any initiative be taken to achieve the objective set, in accordance with the distribution of competences recognised by the judgment?

¹ OJ L 255, 30.9.2005, p. 11.

² OJ L 255, 30.9.2005, p. 164.