

## **Owners and insurers join outcry against criminalisation**

### **Industry calls for Brussels to stay in line with international accords, write Janet Porter and Sandra Spears**

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EUROPEAN shipowners and the North of England P&I Club have added their voices to industry concerns about moves to criminalise seafarers caught up in pollution incidents.

The European Community Shipowners' Association is also urging Brussels not to bring in a new regulation covering passenger liability without first resolving potential insurance problems.

And, in a separate move, the North of England P&I Club is urging shipowners to pull together to fight governments and authorities' "unrelenting campaign" to "penalise and criminalise" the shipping industry.

In its latest newsletter, Ecsa draws attention to the controversial proposals agreed by the European Union Transport Council, to impose criminal sanctions in the event of marine pollution caused "with intent, recklessly, or by serious negligence." Greece and Malta voted against the proposal.

The shipowners' association says it "regrets" that the political agreement will create legal uncertainty, and points out that some provisions of the draft directive conflict with existing global regulations.

With the draft directive at an advanced stage on the legislative process and close to formal adoption by the Transport Council and European Parliament, the shipping industry is again calling for the EU to stay in line with international accords.

Brussels is also under pressure to clarify a number of points before bringing in a new regulation implementing the provisions of the Athens Protocol within EU law.

It remains uncertain whether the P&I system will be able to cover the very high levels of liability that are established under the new protocol.

Neither is it clear whether the protocol includes a liability for acts of terrorism that are not insurable.

These issues are under discussion at the International Maritime Organization and Ecsa is calling on the commission to "take part in those discussions" to ensure any legal confusion is resolved before the regulation is adopted.

In the latest issue of its membership publication the North of England P&I Club warns that the increasing trend to criminalise seafarers, even in cases where there is no evidence of criminal intent, is "undermining the shipping industry".

This would have the "possible result that masters may now retire early rather than risk spending their final working years in jail".

The increasing trend towards criminalisation of seafarers has been highlighted in cases like the Prestige and the Tasman Spirit while European plans to introduce criminal sanction for accidental oil spills by seafarers are also a source of considerable concern for the industry.

Club claims director Ian Henderson says an industry generating more than \$200bn in income and employing 2m people "is one that governments and public authorities cannot afford to ignore".

The shipping industry faces "increasing difficulties" the club says. These include those resulting from the introduction of the International Ship and Port Facility Security Code on July 1.

Other new regulatory regimes include higher limits under the 1996 protocol to the convention covering the limitation of liability for marine claims and a 50% increase for pollution liability and claims under the Civil Liability and Fund Convention. Further new regimes include the 1996 Hazardous and Noxious Substances convention, the bunker spill convention and a 500% increase in passenger liability limits under the 2002 protocol to the Athens Convention.