



Toulon, on 03 June 2019

DIVISION « ACTION DE L'ETAT EN MER »

## PREFECTORAL DECREE No. 123/2019

### ESTABLISHING THE GENERAL FRAMEWORK FOR THE ANCHORING AND STOPPING OF VESSELS IN THE FRENCH INLAND AND TERRITORIAL WATERS OF THE MEDITERRANEAN

Vice-amiral d'escadre Charles-Henri de La Faverie du Ché  
Maritime Prefect of the Mediterranean

- HAVING REGARD** to the London Convention of 20 October 1972 on the International Regulations for Preventing Collisions at Sea, published by Decree No. 77-733 of 6 July 1977;
- HAVING REGARD** to the Convention for the Safety of Life at Sea (SOLAS) signed on 01 November 1974, as amended;
- HAVING REGARD** to the Convention for the Protection of the Mediterranean Sea against Pollution signed in Barcelona, on 16 February 1976;
- HAVING REGARD** to the United Nations Convention on the Law of the Sea signed in Montego Bay on 10 December 1982, and in particular Articles 18 and 19;
- HAVING REGARD** to the Convention on good-neighbourliness signed in Paris on 18 May 1963 between His Serene Highness the Prince of Monaco and the Government of the French Republic, as amended by the exchanges of letters of 15 December 1997, of 12 September and 16 October 2006, and of 14 March 2003;
- HAVING REGARD** to the Treaty designed to adapt and uphold the friendly and cooperative relations between the French Republic and the Principality of Monaco signed in Paris on 24 October 2002;
- HAVING REGARD** to the Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at common borders signed on June 19, 1990;
- HAVING REGARD** to Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code of Visas (Visa Code);
- HAVING REGARD** to Directive 92/43/EEC of the Council of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;
- HAVING REGARD** to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for a Community water policy (Water Framework Directive);

- HAVING REGARD** to Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 setting up a Community vessel traffic monitoring and information system, as amended by Directive 2009/17/EC of European Parliament and Council of 23 April 2009 and Directive 2011/15/EU of the Commission of 23 February 2011;
- HAVING REGARD** to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive);
- HAVING REGARD** to the Environment Code, and in particular Articles L.411-1, L.411-2 and L.415-3;
- HAVING REGARD** to the Customs Code;
- HAVING REGARD** to the Transport Code;
- HAVING REGARD** to the Penal Code and in particular Articles 131-13 and 610-5;
- HAVING REGARD** to law No. 76-629 of 10 July 1976 on the protection of nature
- HAVING REGARD** to law No. 2016-1087 of 8 August 2016 on the recovery of Biodiversity, Nature and Landscapes
- HAVING REGARD** to decree No. 2016-1687 of 8 December 2016 relating to the maritime areas under the sovereignty or jurisdiction of the French Republic;
- HAVING REGARD** to decree No. 84-810 of 30 August 1984, as amended, on safeguarding life at sea, habitability on board and the prevention of pollution;
- HAVING REGARD** to decree No. 85-185 of 6 February 1985, as amended, regulating the passage of foreign vessels through French Territorial Waters;
- HAVING REGARD** to decree No. 96-774 of 30 August 1996 on the publication of the United Nations Convention on the Law of the Sea of 10 December 1982;
- HAVING REGARD** to decree No. 2004-112 of 6 February 2004, as amended, on the organization of State action at sea;
- HAVING REGARD** to decree No. 2011-2108 of 30 December 2011 on the organization of the surveillance of maritime navigation;
- HAVING REGARD** to decree No. 2015-958 of 31 July 2015 defining the baselines from which the breadth of the French territorial sea adjacent to the territory of mainland France and Corsica is measured;
- HAVING REGARD** to decree No. 2016-1108 of 11 August 2016 on the preparation of a collection of administrative acts of maritime prefectures in electronic form
- HAVING REGARD** to decree No. 2018-681 of 30 July 2018 establishing the external limit of the territorial sea off mainland France;
- HAVING REGARD** to the Ministerial Order of 19 July 1988 on the list of endangered Marine Plant Species;
- HAVING REGARD** to the Ministerial Order of 22 March 2007 establishing the list of missions at sea incumbent upon the State in the maritime areas of the Channel - North Sea, the Atlantic, the Mediterranean, the West Indies, the French Guiana, South of the Indian Ocean and in the waters bordering the French Southern and Antarctic Territories
- HAVING REGARD** to the inter-prefectoral order No. 2012016-0002 of 16 January 2012, modified, creating the maritime and river regulatory area of the Grand Port Maritime of Marseilles, regulating the maritime traffic service and various measures relating to the safety of the Grand Port Maritime of Marseilles;

- HAVING REGARD** to the prefectural order No. 6/2004 of 30 January 2004 relating to the reporting of incidents and accidents at sea in the ecological protection zone, under French jurisdiction in the Mediterranean;
- HAVING REGARD** to the prefectural order No. 155/2016 of 24 June 2016 regulating the mooring of vessels in the French inland and territorial waters of the Mediterranean;
- HAVING REGARD** to the prefectural order No. 47/2017 of 28 March 2017 regulating navigation near the French coasts of the Mediterranean with a view to preventing accidental marine pollution and in particular its articles 3 and 7;
- HAVING REGARD** to the prefectural order No. 19/2018 of 14 March 2018 regulating the navigation and the practice of scuba diving along the French coast of the Mediterranean;
- HAVING REGARD** to the VIGIPIRATE Plan of the Mediterranean Sea Area of 19 December 2014;
- HAVING REGARD** to the consultation of the public held from 26 March to 16 April 2019 and the summary of comments made by the public, as well as the reasons for the prefectural order posted on the website of the Maritime Prefecture of the Mediterranean on 29 May 2019;

**Considering** that the action of anchoring and stopping of French and foreign vessels in the French inland and territorial waters of the Mediterranean are actions under the navigational and public order authority at sea, falling under the competence of the maritime prefect;

**Considering** that the rules relating to the innocent passage of foreign vessels in French territorial waters are defined by the maritime prefect;

**Considering** the obligations of France with regard to the conservation of good environmental quality of the waters;

**Considering** the scientific studies transmitted to the maritime prefect showing further degradation of Posidonia meadows associated with the anchoring of large vessels (beyond 24 meters);

**Considering** the necessity of regulating the anchoring and the stopping of vessels flying the French or foreign flag, in the French inland and territorial waters of the Mediterranean, for the purpose of ensuring the defence of sovereign rights and interests of the Nation, maintaining public order, safeguarding people and property, and protecting the environment.

**Considering** the necessity of establishing mooring areas compatible with the safety of navigation, State security and the protection of endangered species;

**Considering** that the mooring or stopping is the responsibility of the ship's captain or any person exercising responsibility or control of the ship.

## DECREES

### **ARTICLE 1 - SCOPE OF APPLICATION**

The provisions of this decree are applicable to:

- vessels flying the French flag;
- foreign-flagged vessels, in accordance with the right of innocent passage granted to them; intending to anchor or stop in French inland or territorial waters of the Mediterranean.

This decree is applicable, without prejudice to the provisions of the particular decrees setting out the conditions specific to certain areas or types of vessels.

This order does not apply:

- in estuaries, upstream of the transversal limit of the sea;
- in the ports, within administrative boundaries;
- in the Maritime and River Regulation Zone (ZMFR) of the Grand Port Maritime of Marseilles (GPMM), with permission to anchor being issued by the port maritime traffic service.

It applies, however, in areas subject to compulsory pilotage when they are located outside the administrative boundaries of the ports or the Maritime and River Regulation Zone (ZMFR) of the Grand Port Maritime of Marseilles.

In addition, with the exception of measures relating to maritime security provided for in Article 5, this Order does not apply to Moorings and Light Equipment Areas (ZMEL), nor mooring equipment and buoys which have been granted authorization of occupation of the maritime public domain issued by the departmental prefect.

### **ARTICLE 2 - DEFINITIONS**

Anchoring is defined as immobilizing the vessel with an anchor resting on the seabed, thus excluding mooring on a buoy, which constitutes a stopping of navigation.

Ship stopping also includes dynamic positioning.

### **ARTICLE 3 - GENERAL PRINCIPLES GOVERNING ANCHORING AND STOPPING OF VESSELS**

**3.1** The navigation of any foreign vessel in the French inland and territorial waters of the Mediterranean shall be understood as continuous and rapid action, subject to anchoring and stopping, which shall remain temporary.

**3.2** Anchoring and stopping of vessels are actions related to maritime navigation and are regulated by the maritime prefect of the Mediterranean who is the representative of the State at sea.

**3.3** The maximum duration of anchoring and stopping of any vessel, flying the French or foreign flag, is established by order of the maritime prefect. It may be extended with the prior approval of the maritime authority, in the event of a requirement for the safety of navigation or for any other reason assessed by the said authority.

The maritime prefect's authorization to anchor is examined and communicated by:

- the director of the regional rescue and surveillance operational Centre of the Mediterranean (CROSS MED) or his representative, for anchoring in all areas of the continental and Corsica coast, with the exception of the Grande Rade of Toulon;

- the commander of the naval base of Toulon, in his capacity as director of the Toulon military port, or his representative, for the anchoring in the Grande Rade of Toulon.

**3.4** Without disregarding the provisions of Article 5 of the International Regulations for Preventing Collisions at Sea (IRPCS), all anchored vessels, flying the French or foreign flag, remain under the responsibility of their captain or their master.

**3.5** Communication by VHF radio or, where the vessel is not equipped, through the phone, must be capable of being permanently established between the master or captain of the ship at anchor and the Signal station or CROSS.

**3.6** Vessels subject to the obligation to carry an automatic identification system (AIS) shall keep it in continuous operation while at sea, including during anchoring or stopping.

## **ARTICLE 4 - SPECIAL PROVISIONS REGARDING THE SAFETY OF NAVIGATION**

**4.1** For the purpose of ensuring good order and preventing accidents at sea, anchoring and stopping of vessels shall be carried out in accordance with the rules of safe navigation, and without compromising the safety of persons and property.

**4.2** Except in cases of emergency or otherwise, anchoring and stopping are prohibited in access channels to the ports or in channels provided for by beach marking plans.

## **ARTICLE 5 - SPECIAL PROVISIONS REGARDING SECURITY**

**5.1** The anchoring and stopping of vessels cannot compromise the safety of maritime approaches and the defence of related interests of the State.

**5.2** At the entry into the French territorial sea, any vessel coming from a non-Schengen country, with the exception of the Principality of Monaco, shall notify the maritime authority when it intends to stop or anchor on the French coast.

Pursuant to the VIGIPIRATE plan for the Mediterranean maritime zone, the maritime authority may order ship captains referred to in Article 1 of this Decree to anchor in the areas it shall designate so that a security inspection prior to entry into a port may be carried out on board by the competent State services.

## **ARTICLE 6 - SPECIAL PROVISIONS REGARDING THE PROTECTION OF THE MARINE ENVIRONMENT**

**6.1** Ship anchoring shall not compromise conservation or lead to the destruction, alteration or degradation of habitats of endangered marine plant species.

**6.2** It is therefore forbidden to anchor in an area corresponding to a habitat of protected marine plant species when this action is likely to affect it.

## **ARTICLE 7 - ANCHORING REGULATION**

**7.1** In order to take into account considerations relating to the safety of navigation, the security and the protection of the environment, regulated anchoring areas are established by decree of the maritime prefect.

7.2 The areas concerned and the thresholds of vessels (length) are defined by decree of the maritime prefect for the coast of each department and, if necessary, by navigation basin.

These decrees can be consulted on the collection of administrative acts available on the website of the Maritime Prefecture of the Mediterranean<sup>1</sup>.

## **ARTICLE 8 – PROSECUTION AND PUNISHMENT**

The offences of this decree expose the perpetrators to the prosecutions and punishments provided for in Article L.5242-2 of the Transport Code and Articles R.610-5 and 131-13 of the Penal Code.

## **ARTICLE 9 - FINAL PROVISIONS**

This decree is not applicable to French State-vessels and vessels chartered by the French Navy in the course of their operational missions.

The director of the regional surveillance and rescue operational Centre of the Mediterranean, the commander of the Toulon naval base and their representative, the commander of the operational surveillance and territorial information unit of the Mediterranean, heads of the signal stations, officers and agents of the navigation authority, are responsible, each in those matters that concern them, for the implementation of this decree published in the register of administrative acts of the maritime prefecture of the Mediterranean.

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<sup>1</sup> [www.premar-mediterranee.gouv.fr](http://www.premar-mediterranee.gouv.fr), tab “publications”.