

What support for the compensation of  
economic and ecological damages  
resulting from oil spills?

**Link with the Erika incident**

Seminar on maritime safety

9 – 10/11 October 2012 – Larnaca (CY)



CRPM CPMR

# ERIKA INCIDENT

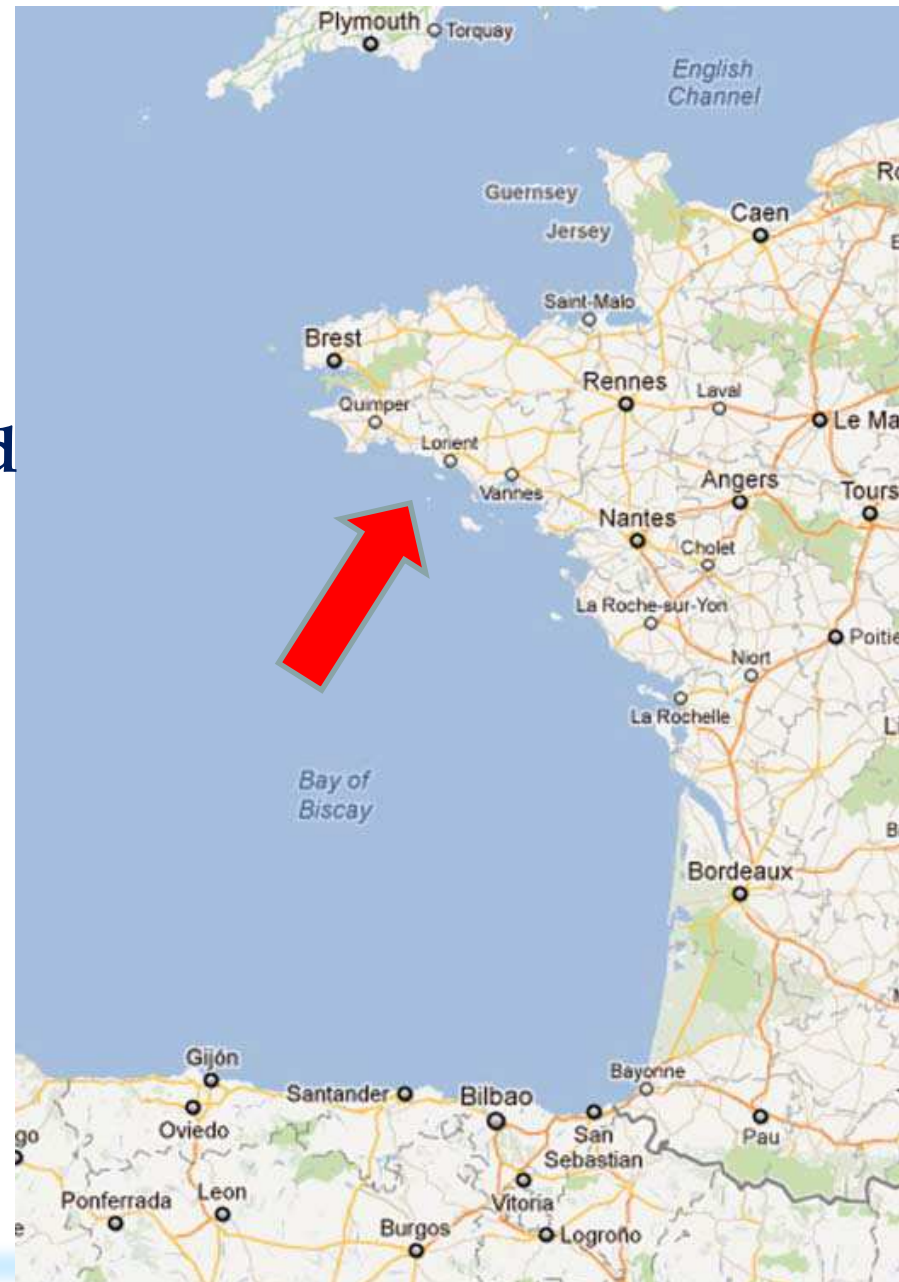


**12 December 1999**

**19 800 tonnes of heavy fuel oil spilled and than 250 000 tonnes of oily waste collected**

**Accident took place outside French territorial waters**

**Flag State of ship : Malta**



## 25 September 2012 - Final decision of the French Supreme Court

Competence of French jurisdictions

Liability of the voyage charterer of the vessel  
(Total)

Civil responsibility of all actors



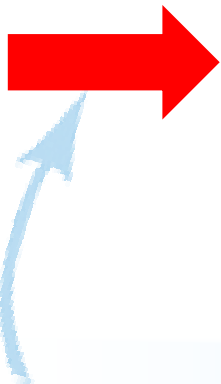
Recognition of ecological damage

# COMPETENCE OF FRENCH JURIDICTIONS

**2 international conventions and one main french legal act:**

- Montego Bay Convention (States are competent within their territorial waters)
- Marpol Convention (Applies to territorial waters)
- France's 1983 Anti-Pollution Bill (Basis for decisions of the French Court of appeal)

Can France be competent for an accident which occurred outside its territorial waters, but which harmed its coast?





# COMPETENCE OF FRENCH JURIDICTIONS

## Decision taken :

- Several elements from the Montego Bay convention can justify the competence of French jurisdictions in the case of a non-voluntary damage harming french coasts
- No contradiction between French law on which french Court can decide, and international convention

## Main arguments :

- International conventions set a framework which do not prevent States to adopt complementary legislations
- The flag state did not ask to be competent



# Liability of the voyage charterer of the vessel (TOTAL)

## Decision:

- The voyage charterer can be held responsible together with other actors (i.e. shipowner...)

## Main arguments:

- As a matter of fact, the charterer (Total) had a control over the ship
- Decision to operate vetting operations in addition to control made by classification societies



## Decision :

- Responsibility goes beyond the simple fault. Penal fault was recognised.
- Consequence : full responsibility, going beyond the CLC convention, can be recognised







# Recognition of ecological damage

## Decision :

Recognition of the existence of an ecological damage on the basis of french law (1983 and 2008 Acts)



## Main question :

Should international/european/national legislations evolve on the ground of territorial competence and recognition of ecological damage? (i.e. ecological damage is not properly recognised at international and european levels)

Issues linked to the compensation of ecological damages is part of the on-going work undertaken within the Erika IV initiative (covering other issues : implementation of the Erika III package, passenger ships (Costa Concordia), maritime surveillance, anti pollution action and social issues

## THANK YOU

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