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Fourth edition  
The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.  
Please note this document has been designed for on-line viewing.

# Safety rules and standards for passenger ships

The European Commission has evaluated existing EU legislation on passenger ship safety and presented three proposals for directives, aimed at simplifying rules and cutting administrative costs, while at the same time making sea travel safer.

This proposal sought to clarify the technical requirements introduced by Directive 2009/45/EC, which vessels must respect in areas of construction, stability and fire protection. The newly defined standards should provide for uniform national interpretations and make the rules easier to update, monitor and enforce.

After the negotiations between the Council, the European Parliament and the Commission concluded on 15 June 2017, the Parliament adopted the agreed text on 4 October 2017 and the Council on 23 October 2017. The deadline for Member States to transpose the final legislative act into their respective laws is 21 December 2019.

See also briefings on the related proposals, on [passenger registration](#) and [vessel inspections](#)

#### Proposal for a directive of the European Parliament and of the Council amending Directive 2009/45/EC on safety rules and standards for passenger ships

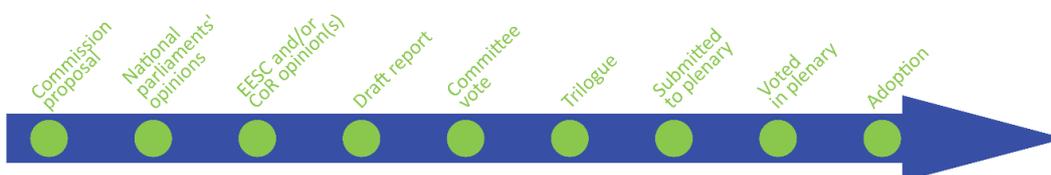
COM(2016) 369, 6.6.2016, 2016/0170(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible: Transport and Tourism (TRAN)

Rapporteur: Daniela Aiuto (EFDD, Italy)

Shadow rapporteurs:  
Salvatore Domenico Pogliese (EPP, Italy)  
Inés Ayala Sender (S&D, Spain)  
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Keith Taylor (Greens/EFA, UK)  
Marie-Christine Arnautu (ENF, France)

Procedure completed. [Directive \(EU\) 2017/2108, OJ L351, 30.11.2017, pp. 40-51](#)



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## Introduction

In the European Union, with its 23 coastal states and 4 island states, passenger ships contribute significantly to citizen mobility. In 2014, the total number of passengers embarking and disembarking in EU ports was estimated at [400 million](#), of which [120 million](#) passengers travelled between ports within a Member State.<sup>1</sup>

In European waters, three levels of safety regulation apply to passenger ships: international, EU and national. Ships on [international](#) voyages (including between two Member States) have to comply with international conventions and certain EU rules, while ships on domestic voyages (between ports of one Member State) have to follow EU and national rules. The existing regulatory framework has ensured a high level of passenger safety, even though numbers of maritime casualties have [risen](#) recently with the migration crisis in the Mediterranean.

Since 2011, the European Maritime Safety Agency (EMSA) records all marine casualties and incidents involving Member State vessels, or occurring in territorial waters of an EU country, on the European Marine Casualty Information Platform ([EMCIP](#)). The collected data on marine casualties and incidents is analysed and shared to further improve safety.

## Existing situation

International maritime standards are developed by the International Maritime Organization ([IMO](#)), a specialised United Nations agency responsible for providing the regulatory framework for shipping. The most important

### Glossary

[CLIA](#): Cruise Lines International Association

[EBI](#): European Boating Industry

[ECSA](#): European Community Shipowners' Associations

[EMSA](#): European Maritime Safety Agency

[Flag State](#): the state, whose flag the vessel is entitled to fly. It is primarily [responsible](#) for monitoring the compliance of ships with the international standards for safety, pollution prevention and on-board living and working conditions.

[HSC](#): high speed passenger craft, defined in Regulation X/1 of the SOLAS Convention, carrying more than 12 passengers.

[IACS](#): International Association of Classification Societies

[IMO](#): International Maritime Organization, global shipping regulator, with responsibility for the safety and security of shipping and the prevention of marine pollution by ships

[Port State control](#): inspection of foreign ships in national ports to verify that the condition of the ship and its equipment complies with the requirements of international conventions, as a second line of defence against substandard shipping.

[Ro-ro ferry](#): a passenger vessel with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers

[SOLAS](#): International Convention for the Safety of Life at Sea, IMO, 1974

1 In 2014, the EU country with the [most](#) maritime passengers per year was Greece (75 million), followed by Italy (72 million), together representing about 37 % of all EU maritime passengers.



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treaty regulating maritime safety is the International Convention for the Safety of Life at Sea ([SOLAS](#)), adopted in 1974, ratified by all EU Member States and regularly updated.

EU maritime safety legislation has been adopted since the 1990s, mainly in response to shipping accidents (*Estonia* 1994) and oil spills (*Erika* 1999, *Prestige* 2002). Providing for safer ships and more efficient handling of ship accidents, this legislation complements international and national standards, transposing IMO rules into EU law and regulating aspects where IMO rules do not apply (domestic voyages) or were seen as insufficient.

Following several individual directives,<sup>2</sup> the EU reinforced its legislation with three consecutive European maritime safety packages (see box). The most recent third package, meant to improve effectiveness of the existing rules, did not however include concrete new measures on passenger ship safety.

## European Parliament's starting position

The Parliament has been the driving force behind many improvements to the EU maritime safety regime, through all three legislative packages. While recognising its [preference](#) for shipping agreements to be concluded at a global scale at the IMO, Parliament fully supports the Union's role in the transposition of international rules into EU law, as well as the [strengthening](#) of EMSA's role. In its [resolution](#) of 9 September 2015 on the implementation of the 2011 white paper on transport, the Parliament specifically called for a legislative proposal to modernise passenger ship safety legislation.

### EU maritime safety packages

The first package (Erika I) strengthened legal provisions for ship inspections and [classification societies](#), including [liability](#) for negligence, introduced a 'blacklist' of [substandard ships](#) to which access to EU ports can be denied, and set a [timetable](#) for phasing-out of single-hull vessels.

The second package ([Erika II](#)) introduced a maritime [traffic monitoring](#) and information system and established the European Maritime Safety Agency ([EMSA](#)) and a compensation fund for oil pollution in EU waters.

The [third](#) package strengthened provisions on [port State control](#), monitoring of ships flying an EU Member State [flag](#), [inspection organisations](#), [accident investigation](#), [liability](#) of passenger carriers, [shipowner insurance](#) and introduced rules for [places of refuge](#) for ships in distress.

<sup>2</sup> [Directive 94/58/EC](#) on training for seafarers, [Directive 94/57/EC](#) on ship inspections and classification societies, [Directive 95/21/EC](#) on port state control, [Directive 96/98/EC](#) on marine equipment, [Directive 98/18/EC](#) on safety rules and standards for passenger ships.



## Proposal

### Preparation of the proposal

The European Commission identified the need to modernise EU passenger ship safety legislation in the 2011 [white paper on transport](#) and contracted an external [evaluation](#), which however only covered [four countries](#) (Italy, Malta, the Netherlands and Spain).

A 2012 [public consultation](#) on Directive 2009/45/EC [confirmed](#) that the complex legislation in place gave rise to differing interpretations<sup>3</sup> and unnecessary administrative costs. Therefore, the Commission tasked COWI, a consulting group, with an [impact assessment](#) focusing on safety aspects, internal market functioning and reducing administrative costs and also organised a [passenger ship safety conference](#).

In 2015, the Commission asked external consultancy firm Tractebel Engineering for a [support study](#) and collected feedback from citizens through a [transport Eurobarometer](#) survey, which indicated a general satisfaction with maritime transport safety – 68 % of respondents regarded ferries and passenger ships as safe.<sup>4</sup>

The Commission then undertook a comprehensive [fitness check](#) of EU passenger ship safety legislation, which covered the following four directives:<sup>5</sup>

- > [Directive 2009/45/EC](#) laying down safety rules and standards for passenger ships;
- > [Directive 1999/35/EC](#) defining a system of mandatory surveys of regular ro-ro ferry and high-speed passenger craft services;
- > [Directive 1998/41/EC](#) setting requirements on registration of persons sailing on board passenger ships, and finally;
- > [Directive 2003/25/EC](#) setting specific stability requirements for ro-ro passenger ships.

In the resulting [report](#), the Commission concluded that the EU legal framework was generally fit for purpose and resulted in improved safety, but that there was [room](#) for clarification and simplification. In the ensuing [roadmap](#), the Commission outlined that its actions would focus on clarifying definitions, removing

3 During consultation, [65 %](#) of stakeholders were not sure if Directive 2009/45/EC covered sailing ships, tenders, and ships carrying offshore workers, 73 % strongly supported simplification of the inspections system (surveys).

4 The biggest problems identified were high ticket prices (18 %); water pollution, and lack of links between destinations (15 %); followed by lack of frequent services (14 %). Inasmuch as the perception of transport quality can be linked to safety awareness, it is noteworthy that the most significant difference in quality of sea or river transport over the last five years was seen in Malta and Greece, with over [50 %](#) of respondents agreeing that the quality of waterborne passenger transport has improved.

5 Three other directives, not included in the fitness check, overlap with two of the directives reviewed. As regards survey requirements, [Directive 2009/16/EC](#) overlaps with Directive 1999/35/EC and Directives [2002/59/EC](#) and [2010/65/EU](#) lay down more up-to-date reporting requirements than Directive 1998/41/EC.



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disproportionate requirements, reducing the complexity and administrative burden of ship inspections, eliminating double reporting and modernising data collection for safer search and rescue operations.

In 2016, a [targeted consultation](#) of the Passenger Ship Safety Expert Group collected [input](#) from 19 EU Member States and Norway, which together with EMSA's technical assistance facilitated formulating the simplification proposals. To collect stakeholders' views a [workshop](#) was organised on 2 February 2016,<sup>6</sup> complemented by separate written comments from shipping industry representatives.

While the proposals were not accompanied by an impact assessment, the Commission published an overview of its [planned action](#) and a detailed [implementation plan](#). In addition to ensuring a common and high level of passenger safety and removing barriers to trade, it is expected that rationalising inspection efforts will save up to [€900 000](#) a year.

As a **first phase** of the follow-up, the Commission published three [legislative proposals](#) in June 2016:

- > for a directive on [safety rules and standards for passenger ships](#) (amending Directive 2009/45/EC);
- > for a directive on simplified [inspections of ro-ro ferries and high-speed passenger craft](#) (replacing and repealing Directive 1999/35/EC and amending Directive 2009/16/EC);
- > for a directive on [registration of persons sailing on board passenger ships](#) (amending Directive 98/41/EC).

In the **next phase**, the Commission intends to:

- > pursue EU efforts to improve international rules for passenger ships in a damaged condition by proposing new damage stability standards to the IMO Sub-Committee on [Ship Design and Construction](#). The outcome of the IMO debate will determine the potential review of Directive 2003/25/EC.
- > develop EU standards for small craft (under 24 metres), built from innovative materials, such as fibre-reinforced plastic.

## The changes the proposal would bring

The proposal updates [Directive 2009/45/EC](#), which set safety standards for passenger ships made of steel or equivalent material and high-speed craft (HSC) providing domestic services, seeking to ensure a high level of safety and remove barriers to trade.

Incorporating and adapting international standards (IMO [SOLAS](#) Convention), the directive established **technical requirements** for vessel construction, stability, machinery, electrics, fire safety and life-saving

<sup>6</sup> Participating stakeholders: CLIA, Sea Europe, EBI, IACS, ECSA, Interferry and SOS Catastrophes.



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appliances. If they wish, national authorities can impose further requirements. The directive also includes particular provisions on access and public information requirements for persons with reduced mobility.

Depending on the **sea areas** where they may operate, passenger ships are divided into **classes** A, B, C and D – D class ships having the most limited operational range. Member States have to publish the list of their sea areas and vessels concerned. The EU domestic passenger fleet comprises of about [3 175 vessels](#), navigating in sea areas A to D, and around 900 ships operating only in designated port areas.

To be registered in an EU country, each passenger vessel must be **inspected** before entry into service and then at least once a year. All vessels meeting the safety standards receive an annual passenger ship safety **certificate**. National authorities must impose 'effective, proportionate and dissuasive' **penalties** for breaches of the safety standards. The directive does not apply to some categories of ships, for instance warships, primitive wooden ships and historical passenger ships, pleasure yachts carrying fewer than 12 passengers, and vessels used only in ports.

The fitness check revealed that a number of ambiguous provisions, definitions and requirements gave rise to **varying interpretations** by national authorities and could hinder effective implementation. This concerned, in particular, the types of ship covered. For instance, some Member States certify aluminium ships under this directive, while others do not, depending on how they interpret the term 'equivalent material'.

The [proposal](#), therefore, firstly removes redundant **references**, specifies some **definitions** and clarifies that the directive does not apply to sailing ships, tenders, and ships referred to in the IMO code of safety for special purpose ships, including offshore supply vessels (see box).

#### Clarifying the scope of Directive 2009/45/EC

**Offshore service vessels** transport workers to offshore installations, such as wind farms, and most operate domestically. The question is whether to categorise these workers as ordinary passengers, given that they have to attend safety training and fulfil fitness criteria. For the IMO, the closest defined category is 'special personnel', which, however, refers to persons working on board, such as lab scientists. For ten EU Member States such workers are 'passengers', whereas for nine others they are 'special personnel'. If excluded, [two](#) Danish vessels would need to be re-certified.

**Tenders** are ship-carried boats used for transferring more than 12 passengers from a stationary (mostly cruise) passenger ship to shore and back, some with capacity for over 300 passengers. The issue is whether to consider tenders as onboard equipment or as passenger vessels in their own right. According to IMO guidelines, regular passenger ships, not tenders, should be used for activities such as coastal excursions.

**Traditional ships** designed before 1965 and their replicas, built mostly with original materials, are considered cultural heritage and used to promote traditional skills, seamanship and maritime heritage. They remain outside the directive's scope, but are defined more precisely.



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**Sailing ships** were already excluded as passenger ships not propelled by mechanical means, however it is now specified that even ships fitted with mechanical propulsion for auxiliary and emergency purposes are to be excluded. This concerns about [50 ships](#), mostly under the Dutch flag.

**Pleasure yachts** are defined as vessels carrying no cargo, not more than 12 passengers, and not engaged in trade, regardless of the means of propulsion, and are excluded from the directive's scope.

Secondly, the Commission proposes to **exclude** from the scope of the directive passenger **ships below 24 metres**, a threshold stemming from international regulations. Most such ships are built from materials other than steel (wood and composites). As only about [70](#) out of a total 1 950 registered ships are currently certified under the directive, the Commission argues that the relevant safety standards would be [better defined](#) by Member States.

Thirdly, the proposal specifies that aluminium is a material equivalent to steel. **Ships built from aluminium** should fall within the directive's scope and, consequently, comply with the corresponding **fire safety standards**. This entails significant retrofitting costs for about [100 vessels](#), sailing mostly in France and Italy.

Furthermore, the proposal clarifies and simplifies the **definition of sea areas**, currently based on three parameters: the distance to the coast, the distance to a place of refuge and the significant wave length. The distance to the place of refuge is to be removed, meaning that seven Member States would need to modify their sea areas classification.

Finally, the Commission proposes to use an existing platform as a database to increase transparency, facilitate the notification of exemptions, equivalences and additional safety measures and align the directive with the Treaty on the Functioning of the European Union (TFEU) as regards the power conferred on the Commission to adopt delegated and implementing acts.

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## Views

### Advisory committees

The European Economic and Social Committee (EESC), in its [opinion](#) of 19 October 2016 (rapporteur: Tomas Abrahamsson, Group II – Workers, Sweden) welcomed the inclusion of aluminium ships in the directive, and recommended further clarification of the technical standards applicable, in cooperation with national experts. The opinion noted with appreciation the attention paid to accessibility for persons with reduced mobility, seen as an important aspect of EU added value, as opposed to the international standards. For the sake of passenger safety, however, it recommended keeping new ships below 24 metres within the scope of the directive.

The European Committee of the Regions did not formulate an opinion.

### National parliaments

While no reasoned opinion has been [submitted](#), the Italian Senate suggested that Member States should be allowed to keep their current stricter fire prevention methods and that existing aluminium ships should not be compelled to adjust to the new standards, or, alternatively, be given a longer adjustment period.

### Stakeholders' views

Two main issues [raised](#) by stakeholders during the workshop organised by the Commission on 2 February 2016 were the **exclusion of ships below 24 metres** and the compliance with **fire safety requirements for aluminium ships**. Stakeholders also wondered whether the technical standards for Class C and D vessels are appropriate, as these are not necessarily small ships, but also include large vessels.

The European Community Shipowners' Associations and the European Boating Industry ([ECSA and EBI](#)) were concerned about the impact of the higher fire insulation requirements on aluminium ships, which they found impracticable, due to high costs. Instead, they recommended limiting fire insulation to areas at risk of fire, such as engine rooms, and avoid increasing the vessel's weight disproportionately, leading to stability risks, and increased fuel consumption and emissions. They also found the adjustment period for the existing aluminium fleet was not feasible and warned that orders for construction of new vessels could shift to other materials (such as fibre reinforced plastic), leading to losses for shipyards specialised in building aluminium passenger vessels, which were not the objective of the REFIT initiative.



## Legislative process

In Council, the Shipping Working Party proposed several revised definitions and a further simplification of the classification of sea areas. It also discussed possible exemptions for Member States with no maritime ports and no ships flying their flag, the extension of the transposition deadline to 36 months, and of the compliance deadline (to seven years for existing aluminium ships and to 14 years for Member States with more than 60 aluminium passenger ships, if these ships operate exclusively between national ports – which applies to France only).<sup>7</sup>

The Transport Council, at its meeting of 1 December 2016, adopted a [general approach](#). Remaining reservations concerned the exclusion of offshore vessels<sup>8</sup> and sailing ships<sup>9</sup> from the scope. The Transport Commissioner, Violeta Bulc, [considered](#) the suggested 14-year derogation from a directive unacceptable. She also reaffirmed that the directive has no adequate standards for ships primarily propelled by sail and, consequently, national standards apply without compromising their safety.

On 11 April 2017, the Committee on Transport and Tourism (TRAN) of the European Parliament [adopted](#) its [report](#). It supports the exclusion of ships below 24 metres (while asking the Commission to provide guidelines to ensure their safety), vessels transporting offshore workers, tenders and sailing ships with auxiliary mechanical propulsion. While supporting the inclusion of vessels made of aluminium, it suggested a longer transition period for their adaptation (8 years for fleets of over 60 ships). In addition, for the purposes of vessel classification, Greece should be allowed to continue using the concept of sea routes rather than define sea areas. Finally, the EU should actively monitor and improve the social conditions of workers on board, which impact on vessel safety.

Negotiations between the Council, the Parliament and the Commission [concluded](#) on 15 June 2017.

It was agreed that ships below 24 metres, as well as sailing ships and ships not propelled by mechanical means, tenders and offshore service ships remain outside the scope of the directive. Member States with no seaports and no ships flying their flag can derogate from the directive, and Greece can derogate from the rule on establishing sea areas. Member States with more than 60 passenger ships made from aluminium can also derogate (10 years for ships built before the directive enters into force and 12 years for new ships, if

7 Member States with aluminium-built ships currently certified [outside](#) Directive 2009/45/EC: Italy – 41, France – 86 (of which around 60 in parts of France to which Treaty provisions apply) and Greece – 1.

8 Ireland, which considered ships (made of steel or equivalent) transporting more than 12 offshore workers as passenger ships, feared that excluding them will reduce worker safety and introduce barriers.

9 For Ireland and Germany, sailing ships fitted with an engine should not be excluded from the scope of the directive, since making them subject to differing national regulations would reduce maritime safety. They underlined that sailing ships fitted with an engine are within the scope of the IMO SOLAS Convention and must have an international passenger ship safety certificate for international voyages between EU Member States. As an example, they recalled the accident of the Dutch sail training vessel Astrid, shipwrecked off the Irish coast in 2013 without lives lost. Built originally as a cargo ship in 1924 and fitted with an engine, it was converted into a passenger ship in the 1980s. The wreck was the result of an engine failure which the ship was not able to correct with its sails, in a strong wind close to the shore. There has been some confusion around Astrid's inadequate certification – the Netherlands considered its sail training ships (although fitted with an engine) as 'not propelled by mechanical means', implying that they do not have to meet the strict SOLAS safety requirements for passenger ships. Irish authorities investigating the incident [concluded](#) that neither the ship nor the crew were properly certified, and the ship should not have been at sea.



they operate only between ports of that Member State). The Commission's power to adopt delegated acts has been limited to seven years, and the transposition period set at two years.

The [agreed text](#) was adopted by the EP at first reading on 4 October 2017 and by the Council on 23 October 2017. The final [legislative act](#) was published in the Official Journal on 30 November 2017 and Member States have until 21 December 2019 to transpose and apply the directive.



## References

### EP supporting analysis

EPRS Ex-Post Impact Assessment, [Implementation and effects of the Third Maritime Safety Package](#), October 2015

EPRS Briefing (Better Law-Making in action), [Fitness Checks in Practice: Safety of Passenger Ships](#), March 2016

EP Policy Department study on [The EU Maritime Transport System: Focus on Ferries](#), November 2016

### Other sources

[Safety rules and standards for passenger ships](#), EP Legislative Observatory (OEIL)

[Passenger Ship Safety Legislative Review](#), Grimaldi e Associati, April 2011

[Evaluation of passenger ship safety legislation: final report](#), European Commission, Tractebel Engineering, August 2015

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