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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.

# Registration of persons on board 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 amend the requirements set by Directive 98/41/EC for counting and registering passengers and crew on board passenger ships, and to remove any overlap in reporting obligations or disproportionate requirements. The main change introduced was the digitalisation of reporting obligations.

After the interinstitutional negotiations concluded on 14 June 2017, the European Parliament adopted the agreed text on 4 October 2017 and the Council on 23 October 2017. The new provisions will apply from 21 December 2019.

See also briefings on the related proposals, on [safety rules](#) and [vessel inspections](#).

Proposal for a directive of the European Parliament and of the Council amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States

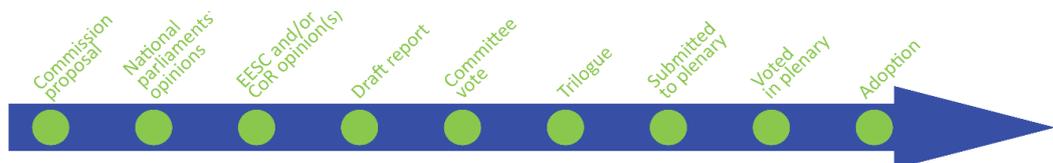
COM(2016) 370, 6.6.2016, 2016/0171(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible: Transport and Tourism (TRAN)

Rapporteur: Izaskun Bilbao Barandica (ALDE, Spain)

Shadow rapporteurs:  
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Procedure completed. Directive (EU) 2017/2109, [OJ L 315, 30.11.2017, pp. 52-60.](#)





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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.

### 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

<sup>1</sup> 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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## 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 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.



Preparation of the proposal

The changes the proposal would bring

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

As the relevant international rules (IMO SOLAS) do not apply to domestic voyages and leave a number of points open to the interpretation of individual Member States, the EU adopted [Directive 98/41/EC](#) (the 'Passenger Registration Directive'), setting requirements for information regarding persons on board passenger ships. Applying to ships operating to and from the EU ports, regardless of their flag, the directive does not, however, apply to warships, troopships and pleasure yachts (unless crewed and carrying more than 12 passengers for commercial purposes). Member States may grant some exceptions, such as to ships operating only in protected sea areas.

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



Preparation of the proposal

The changes the proposal would bring

By establishing that **passengers and crew** must be **counted and registered** before a ship's departure, the directive sought to establish a common minimum level of safety, avoid overcrowding on board, facilitate search and rescue operations, and allow for their efficient follow-up.

On all voyages, the shipping company must be able to inform search and rescue services of the number of persons involved in an accident. For longer voyages – of more than 20 nautical miles (about 37 km) from the point of departure – further information is required. The data recorded on every passenger (name, sex, age and, voluntarily, the need for special care or assistance) has to be **stored in the company's system** and available for transmission to the competent search and rescue authority. This implies, however, that in an emergency, the national competent authority has to contact the shipping company. Experience has shown that the data is not always readily available, nor does it include information on nationality, which can complicate the provision of assistance to victims and their relatives.

Since the adoption of the 1998 directive, several international conventions and EU laws have been adopted and new technological systems developed. Efforts to simplify passenger registration formalities, seen as burdensome, first led to the practice of using certain standardised forms,<sup>7</sup> until [Directive 2010/65/EU](#) (the 'Reporting Formalities Directive') introduced a tool known as the national single window, linking the systems already established (see box).

#### Automatic identification system (AIS)

This maritime broadcast system is based on the transmission of very high frequency radio signals. Ships report their identification, position and course, as well as information on cargo. In Europe, AIS messages are exchanged through the [SafeSeaNet](#) system monitoring vessel traffic, introduced by [Directive 2002/59/EC](#) and operated by EMSA.

#### National single window

Introduced by [Directive 2010/65/EU](#), this tool simplifies the administrative burden by providing a single [locale](#) for ship data providers, at either national or port level, to report all maritime information, which is then made available to all relevant authorities. The tool links SafeSeaNet, [e-Customs](#) and other electronic systems.

EU Member States were to collect electronic reports via their national single window from June 2015. All information should be reported once and made available to various competent authorities and the Member States.

Using this new system, however, does not remove the reporting obligations imposed by the Passenger Registration Directive and as a result, operators who transmit data to the national single window are exposed to a double reporting regime.

<sup>7</sup> FAL forms, defined by the IMO in 1965 and transposed into Community law by [Directive 2002/6/EC](#).



Preparation of the proposal

The changes the proposal would bring

The principal change introduced by the [proposal](#) is the **digitalisation of reporting obligations**, expected to further improve the current safety level. Following the proposal, **passenger data** would no longer be kept by the shipping company and available only on demand, but would be recorded in an electronic system and immediately **transmitted to the national single window**.

For longer voyages, passenger information should be recorded at the latest 30 minutes after the ship's departure. A new element of information to be provided is **nationality**, which would be based on passenger self-declaration. The information collected will be stored in line with EU law on personal data and should be kept until the journey safely ends or, should an accident occur, until the end of judicial proceedings.

Currently, ships above 300 gross tonnes calling in EU ports have to report the total number of persons on board in the national single window, while small or local operators may still keep paper only records, and could be negatively impacted by the proposal's requirement. In the [targeted consultation](#), 11 Member States agreed with the proposed transmission of data by the national single window, while eight disagreed, arguing that the potential investment needed in IT systems and internet capacity is significant.

An **alternative** is therefore proposed for (usually smaller) companies operating voyages shorter than 20 nautical miles, often without computer systems or on board internet connection. These vessels could transmit the number of persons on board only to the designated authority through the ship's AIS.

Company registration systems would not need to be approved by Member States, which would only have to ensure that the electronically collected data is accurately recorded, in a timely fashion, and subject to verification.

In addition, the proposal clarifies the **scope of application** of the directive, explaining how to interpret the threshold of 20 nautical miles and define 'sea area D' in estuaries and ports. It also aligns the passenger registration directive with the Treaty on the Functioning of the European Union (TFEU) provisions as regards the European Commission's powers 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 Vladimír Novotný, Group I – Employers, Czech Republic), welcomed the proposed use of modern electronic reporting methods. The EESC agreed with adding nationality to the information recorded and recommended specifying the data retention period. As regards small carriers, the EESC underlined the need to protect them against increased red tape and welcomed the alternative solution offered.

The European Committee of the Regions (CoR) has not formulated an opinion.

### National parliaments

No reasoned opinion has been [submitted](#). The Italian Senate pointed out that information about individuals on board should also be used for the purpose of preventing sabotage and piracy, and recommended better coordination of passenger lists management.

### Stakeholders' views

At the [workshop](#) organised by the European Commission on 2 February 2016, stakeholders generally supported the inclusion of nationality in the collected data, provided that the principle of self-declaration (already an established practice for the [cruise sector](#)) is retained. Shipowners raised the issue of identity checks, a measure imposed by national governments in the context of the migration crisis, but carried out by operators.

Noting that the Reporting Formalities Directive and the [Vessel Traffic Monitoring Directive](#) are still [being evaluated](#) by the Commission, the European Community Shipowners' Associations and the European Boating Industry ([ECSA and EBI](#)) asked that changes in the reporting of passenger data be postponed until the national single window system has been stabilised or modified. They argued that local reporting arrangements may be more appropriate than national or EU ones, and feared that safety data could be misused for immigration control purposes.



## Legislative process

On 7 June 2016, the Commission presented the proposal to the Transport Council.

Following a first examination by the Shipping Working Party, the Council adopted a [progress report](#) on 1 December 2016.

The European Data Protection Supervisor (EDPS) formulated [recommendations](#) to make clear that, without an appropriate, specific legal basis, the personal data collected should not be used for commercial purposes, nor as a new resource for law enforcement or border control purposes.

The Council adopted a [general approach](#) on 8 March 2017, giving Member States the flexibility to report the number of persons on board by 'appropriate technical means' and allowing Member States to continue using the current (non-digitalised) reporting system for a transitional period of ten years. Also, short regular services (of less than one hour) and some specific geographic services can be exempted from the obligation to report in the single window. On the procedural side, implementing acts would be used for Member States' decisions to grant exemptions, while the Commission's power to adopt delegated acts should be limited to seven years. Lastly, the Council proposes to extend the transposition period from 12 to 36 months, while Member States with no maritime ports and no ships flying their flag would not need to transpose the Directive at all.

On 11 April 2017, the Committee on Transport and Tourism (TRAN) of the European Parliament [adopted](#) its legislative [report](#). Endorsing the rules for the digital reporting of passenger data, the TRAN Committee added an additional option for operators on shorter routes to report the number of persons on board via a local Member-State-approved electronic system. As well as information on nationality, the report proposes to collect dates of birth as well as information on special care or assistance. Moreover, the period for recording passenger information should be shortened and the personal data destroyed immediately after the voyage or any investigation after an incident. The TRAN Committee also voted to launch trilogue negotiations with Council and the Commission.

Negotiations between the Council, the Parliament and the Commission [concluded](#) on 14 June 2017. The compromise text was approved in the TRAN Committee on 11 July 2017.

It was agreed that, within 15 minutes of the ship's departure, the number of persons on board should be reported to the single window (a European single window in the future) or to the designated authority through AIS. Member States can grant exemptions from the obligation to report in the single window to regular services of less than one hour, and for several specific geographic services. Exemptions will be recorded in a publicly accessible database. Moreover, for a transitional period of six years, Member States can continue with current systems of reporting to the company's passenger registrar or to a shore-based company system.

Personal data, collected in line with EU law (including nationality and date of birth), should not be kept by the transport company and must be erased automatically by Member States once the ship's voyage or any incident investigation is completed.



The directive does not apply to pleasure yachts, and a derogation can be granted to landlocked Member States with no passenger ships flying their flag. The Commission's power to adopt delegated acts has been limited to seven years, and the transposition deadline set at two years after the directive's entry into force.

The [agreed text](#) was adopted by the EP at first reading on 4 October 2017 and by the Council (Employment, Social Policy, Health and Consumer Affairs) on 23 October 2017.

The [final act](#) was signed by the President of the EP and by the President of the Council on 15 November and published in the Official Journal on 30 November. It entered into force on 20 December 2017. Member States must transpose the new provisions into their respective laws by 21 December 2019, when they will start to apply.



## References

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