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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.

Inspections of ro-ro ferries and high-speed passenger craft

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 seeks to rationalise inspections conducted by national administrations while ensuring a high level of passenger ship safety and without unnecessarily limiting the ship's commercial operations, making the inspections system for these ships simpler, more effective and cheaper.

After interinstitutional negotiations concluded on 14 July 2017, the European Parliament adopted the agreed text on 4 October 2017 and the Council on 23 October 2017. The final act entered into force on 20 December 2017 and the new provisions will apply from 21 December 2019.

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

Proposal for a directive of the European Parliament and of the Council on a system of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service and amending Directive 2009/16/EC of the European Parliament and of the Council on port State control and repealing Council Directive 1999/35/EC

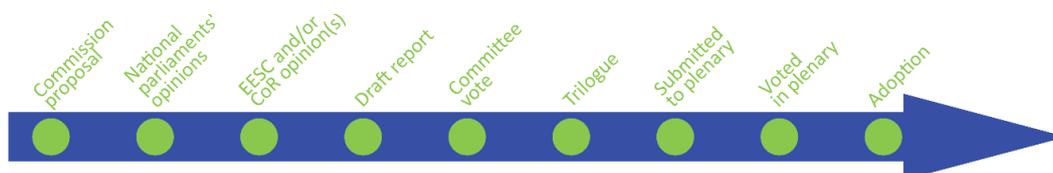
COM(2016) 371, 6.6.2016, 2016/0172(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible: Transport and Tourism (TRAN)

Rapporteur: Dominique Riquet (ALDE, France)

Shadow rapporteurs: Cláudia Monteiro de Aguiar (EPP, Spain)
István Ujhelyi (S&D, Hungary)
Jacqueline Foster (ECR, UK)
Merja Kyllönen (GUE-NGL, Finland)
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Marie-Christine Arnautu (ENF, France)

Procedure completed. Directive (EU) 2017/2110
[OJ L 315, 30.11.2017, pp. 61-77.](#)



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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.¹

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,² 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.

2 [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 interpretations³ 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.⁴

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

- > [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 2016,⁶ 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

Inspections of ro-ro ferries and high-speed passenger craft (HSC) in the EU are currently carried out according to [Directive 1999/35/EC](#), which lays down a system of mandatory ship checks ('surveys') to ensure safe operation of ro-ro ferries and HSC services to and from EU ports, regardless of their flag, operating international or domestic voyages.

These checks address particular safety characteristics, including risks related to undivided vehicle decks, water-tightness, hoistable ramps, as well as wear and tear. EU Member States, in their position as port State,

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



have to ensure that, before they start operating a service, ferries and HSC vessels comply with the relevant standards and specific stability requirements, are equipped with a recorded voyage data and carry valid certificates.

After this initial check, further inspections need to be carried out twice a year (and after any repairs or change of management), one of them during the regular ship service. The port State has to prevent vessels that do not comply with safety standards from operating and has the right to participate in investigation of maritime incidents on approved services. For their part, companies operating a service have to ensure that information on shore-based navigational guidance systems is available on board.

Since the adoption of the directive, however, the regime of inspections has been strengthened and complemented by flag State surveys ([Directive 2009/21/EC](#)) and stricter port State inspections ([Directive 2009/16/EC](#)). The Port State Control Directive introduced a risk-based inspection regime, stipulating a number of inspections to be carried out on ships with high risk, and allowing port States to ban substandard ships from EU waters. Consequently, while ro-ro ferries and HSC vessels still need a special inspection regime, the relevant requirements should be adapted.

To fulfil the existing compliance obligations, authorities in most Member States combine or replace some of the checks required by Directive 1999/35/EC with flag State surveys or port State control inspections, which gives rise to regulatory gaps and overlap. In addition, the interpretation of the required 'regularity' of checks is ambiguous: while the directive prescribed two checks per year, it did not specify the time window between them, allowing for the current practice of passing these inspections consecutively.

Therefore, the Commission [proposes](#) to repeal Directive 1999/35/EC and replace it with new rules, seeking to clarify and simplify the existing requirements, create a robust inspections⁷ regime without gaps and overlap, lower the administrative burden for shipowners and increase the time when the ship can be exploited commercially. Member State authority inspection efforts would be rationalised, without compromising safety.

The proposal eliminates redundant references and limits the directive's scope to ships providing regular passenger services between ports within a Member State or between a Member State's port and a port in a third State, which is the ship's flag State.

For **initial checks**, the proposal changes the focus from company-based to **ship-based** inspections. Subsequently, ships should be checked twice per year as previously, with one check occurring during a regular service. These **inspections** should be carried out at intervals (**not consecutive**), and can be combined with the annual flag State survey of the vessel.

Moreover, the proposal aligns a number of provisions (concerning inspection reports, prohibitions of departure, appeals, costs, the inspection database and penalties) with Directive 2009/16/EC on Port

7 In international conventions, the term 'survey' refers to the obligation of flag States to monitor ships' compliance with the international standards and issue or renew certificates. While Directive 1999/35/EC mentioned 'surveys', the special regime for ro-ro ferries and HSC cannot be considered a survey and, therefore, the term is replaced with 'inspection' in the current proposal.



Preparation of the proposal

The changes the proposal would bring

State Control, which is amended in turn, to ensure maintenance of the current frequency and content of inspections of ro-ro ferries and HSC.

Finally, the proposal aligns the directive with the provisions of the Treaty on the Functioning of the European Union (TFEU) as regards the powers conferred on the European Commission to adopt delegated acts (Article 290).

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Views

Advisory committees

The European Economic and Social Committee (EESC), in its [opinion](#) of 19 October 2016 (rapporteur Jan Simons, Group I – Employers, the Netherlands), welcomed the simplifications envisaged as providing more legal clarity and rationalising the number of inspections to be conducted by national administrations, while maximising the ship's commercial operations. The EESC considered, however, that further clarification is needed on the proposed inspection database and on how the inspections performed under the new directive would influence the ship's risk profile.⁸

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

National parliaments

No reasoned opinion has been [submitted](#) within the deadline.

Stakeholders' views

During the [workshop](#) with stakeholders organised by the Commission, no particular issue was raised. The European Community Shipowners' Associations and the European Boating Industry ([ECSA and EBI](#)) subsequently asked for several terminology clarifications, which were incorporated into the text of the proposal.

⁸ The new inspection regime adopted by the Paris Memorandum of Understanding categorises ships according to their [risk profile](#), which determines inspection frequency. Information is stored in the [THETIS information system](#) by EMSA.



Legislative process

The European Commission presented the proposal to the Transport Council on 7 June 2016.

In Council, the Shipping Working Party examined the proposal in September 2016, and agreed on a number of clarifications regarding the scope, terminology adjustments, and changes to definitions, as well as the specification of the time window for yearly inspections. Moreover, the parties proposed to extend the transposition deadline to 36 months and the possibility for exemption from obligatory transposition for Member States with no maritime ports. In addition, the parties wished to set a time limit to the powers delegated to the Commission.

After a debate in Coreper, the Transport Council adopted a [general approach](#) on 1 December 2016, with reservations on parliamentary scrutiny for the United Kingdom and Denmark. The Commission for its part has reservations on the derogation for states with no seaports.

On 11 April 2017, the Committee on Transport and Tourism (TRAN) of the European Parliament [adopted a report](#) clarifying the scope of the proposed directive and that of Directive 2009/16/EC with regard to the port state inspection regime. Given the specific risk profile of ro-ro ferries and high-speed passenger craft, the report recommended that these vessels should be inspected as a matter of priority, at regular intervals of four to eight months. In addition, inspections should take into account the working conditions of the crew, as they impact on ship safety. The report proposed to limit the power given to the Commission to adopt delegated acts to a five-year period.

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

The agreed text takes over the changes proposed by the Parliament as regards the pre-commencement inspections, the specifications of the time window between two inspections (not less than four and not more than eight months) as well as the clarifications of the scope (the directive does not apply to ro-ro passenger ships and HSC falling under Directive 2009/16/EC, such as in cases of a regular service between a Member State and a third country when the vessel does not fly the flag of this third country). In addition, the Parliament's concerns that the inspections should take into account the working environments and personal lives of crews, were taken up.

Derogations can be granted to Member States with no seaports, and river ports with only limited passenger vessel traffic (passenger ships or HSC represent maximum 5 % of all vessels calling). The Commission's power to adopt delegated acts is limited to seven years, while the transposition delay is set at two years after the directive enters into force.

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

On 15 November 2017, the final [legislative act](#) was signed by the President of the EP and by the President of the Council. The directive was published in the Official Journal on 30 November 2017 and 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.



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