



EUROPEAN PARLIAMENT

2014 - 2019

---

*Committee on Employment and Social Affairs*

---

**2013/0390(COD)**

18.12.2014

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council  
on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC,  
98/59/EC and 2001/23/EC  
(COM(2013)0798 – C7-0409/2013 – 2013/0390(COD))

Committee on Employment and Social Affairs

Rapporteur: Elisabeth Morin-Chartier

### ***Symbols for procedures***

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	15



## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a directive of the European Parliament and of the Council on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC**

**(COM(2013)0798 – C7-0409/2013 – 2013/0390(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0798),
  - having regard to Article 294(2) and Article 153(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0409/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of 25 March 2014 of the European Economic and Social Committee<sup>1</sup>,
  - having regard to the opinion of 3 April 2014 of the Committee of the Regions<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Fisheries (A8-0000/2014),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

---

<sup>1</sup> OJ C 226, 16.7.2014, p. 35.

<sup>2</sup> OJ C 174, 7.6.2014, p. 50.

## Amendment 1

### Proposal for a directive

#### Recital 1

##### *Text proposed by the Commission*

(1) Under Article 153 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament and the Council may, in accordance with the ordinary legislative procedure, adopt, by means of directives, minimum requirements for gradual implementation aiming at improving working conditions, the protection of workers where their employment contract is terminated, information and consultation of workers and the working environment to protect workers' health and safety. Such directives must avoid imposing administrative, financial and legal constraints in a way that would hold back the creation and development of small and medium-sized undertakings.

##### *Amendment*

(1) Under Article 153 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament and the Council may, in accordance with the ordinary legislative procedure, adopt, by means of directives, minimum requirements for gradual implementation aiming at improving working conditions, the protection of workers where their employment contract is terminated, information and consultation of workers and the working environment to protect workers' health and safety. Such directives must avoid imposing administrative, financial and legal constraints in a way that would hold back the creation and development of small and medium-sized undertakings, ***which, it is important to note, are the source of 85% of all new jobs in the European Union.***

Or. fr

## Amendment 2

### Proposal for a directive

#### Recital 3

##### *Text proposed by the Commission*

(3) Insofar the existence and/or possibility of introducing exclusions is not justified on objective grounds, they should be suppressed.

##### *Amendment*

(3) Insofar ***as*** the existence and/or possibility of introducing exclusions is not justified on objective grounds ***and gives rise to situations in which seagoing workers are discriminated against***, they should be suppressed.

Or. fr

### Amendment 3

#### Proposal for a directive Recital 5

##### *Text proposed by the Commission*

(5) The present legal situation gives rise to unequal treatment of the same category of workers by different Member States, according to whether they apply or not the exemptions and derogations allowed by present legislation. An important number of the Member States have made limited use of the *exclusions*.

##### *Amendment*

(5) The present legal situation gives rise to unequal treatment of the same category of workers by different Member States, according to whether they apply or not the exemptions and derogations allowed by present legislation. An important number of the Member States have made limited use of the *exemptions and derogation and eight Member States<sup>1</sup> have not made any use of them at all. Furthermore, exclusions are giving rise to unfair competition among Member States which must be brought to an end.*

---

<sup>1</sup> *Bulgaria, Czech Republic, Spain, France, Austria, Poland, Slovenia and Sweden.*

Or. fr

### Amendment 4

#### Proposal for a directive Recital 7

##### *Text proposed by the Commission*

(7) The Blue Book<sup>28</sup> stressed the need for an increase in the number and quality of maritime jobs for European citizens and the importance of improving working conditions on board.

##### *Amendment*

(7) *This Directive is fully in keeping with the Blue Book, which* stressed the need for an increase in the number and quality of maritime jobs for European citizens and the importance of improving working conditions on board.

---

<sup>28</sup> COM (2007) 575 final of 10 October

---

<sup>28</sup> COM (2007) 575 final of 10 October

2007.

2007.

Or. fr

## **Amendment 5**

### **Proposal for a directive Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

*(7a) This Directive is also in line with the Europe 2020 strategy and its employment objectives and with the strategy set out by the Commission in ‘An agenda for new skills and jobs: A European contribution towards full employment’<sup>1</sup>.*

---

<sup>1</sup> COM(2010) 682 final/2.

Or. fr

## **Amendment 6**

### **Proposal for a directive Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

*(8a) The social partners in the maritime and fisheries sector have concluded an agreement of vital importance to proper implementation of this Directive. That agreement strikes a good balance between the need to improve seafarers' working conditions and the need to take proper account of the sector's specific features.*

Or. fr



## Amendment 7

### Proposal for a directive Recital 9

*Text proposed by the Commission*

(9) Having regard to the technological developments of recent years notably as regards communications technology, the information and consultation requirements should be updated.

*Amendment*

(9) Having regard to the technological developments of recent years, notably as regards communications technology, the information and consultation requirements should be updated ***and applied in the most appropriate manner, including remotely, using new information and communication technologies.***

Or. fr

## Amendment 8

### Proposal for a directive Recital 10

*Text proposed by the Commission*

(10) The rights of seafarers covered by this Directive, recognised by the Member States in the national legislation implementing Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and/or 2001/23/EC should be respected.

*Amendment*

(10) The rights of seafarers covered by this Directive, recognised by the Member States in the national legislation implementing Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and/or 2001/23/EC should be respected. ***The implementation of this Directive should not serve to justify any regression whatsoever in relation to the situation which already prevails in each Member State.***

Or. fr

## Amendment 9

### Proposal for a directive Article 2 – point 1 a (new) Directive 2009/38/EC Article 10 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***1a) In Article 10, the following paragraph is added:***

***‘4a. A member of a special negotiating body or European Works Council or a representative of his/hers who is a member of the crew of a vessel shall be entitled to participate in meetings of the special negotiating body or European Works Council or any other meeting within the procedure established under Article 6(3) if he/she is not at sea or in a port in a State other than that in which the undertaking is domiciled when the meeting takes place.***

***Meetings shall, wherever possible, be scheduled in such a way as to allow vessel crew members to attend.***

***With a view to maximising the chances of worker representation, use shall be made, wherever possible, of new information and communication technologies in cases where a member of a special negotiating body or European Works Council or a representative of his/hers who is a member of the crew of a vessel is unable to attend a meeting.’***

Or. fr

## **Amendment 10**

### **Proposal for a directive**

#### **Article 3 – point 1**

Directive 2002/14/EC

Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

Article 3(3) is ***replaced by the following:***

Article 3(3) is ***deleted.***

***‘3. Member States may derogate from this Directive through particular provisions***

*applicable to the crews of vessels plying the high seas, provided that such particular provisions guarantee an equivalent level of protection of the right to information and consultation and its effective exercise by the employees concerned.'*

Or. fr

## Amendment 11

### Proposal for a directive

#### Article 4 – point 1

Directive 98/59/EC

Article 1

#### *Text proposed by the Commission*

(1) Article 1 is amended as follows:

*(a) In paragraph 1, the following point (c) is added:*

*‘(c) ‘transfer’ is interpreted in the meaning of Directive 2001/23/EC.’*

*(b) In Article 1(2), point (c) is deleted.*

#### *Amendment*

1) Article 1 is amended as follows:

In Article 1(2), point (c) is deleted.

Or. fr

## Amendment 12

### Proposal for a directive

#### Article 4 – point 2

Directive 98/59/EC

Article 3 – paragraph 1 – subparagraph 1 a (new)

#### *Text proposed by the Commission*

When the projected collective redundancy concerns members of the crew of a seagoing vessel, the **notification shall be made to** the competent authority of the State of the flag which the vessel flies.

#### *Amendment*

When the projected collective redundancy concerns members of the crew of a seagoing vessel, the **employer shall notify** the competent authority of the State of the flag which the vessel flies.

### **Amendment 13**

#### **Proposal for a directive**

#### **Article 4 – point 3**

Directive 98/59/EC

Article 4 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**(3) In Article 4, the following paragraph  
1a is inserted:** *deleted*

***‘1a. When projected collective  
redundancies of members of a crew, are  
carried out in connection with or deriving  
from a transfer of a seagoing vessel,  
Member States may, after consulting the  
social partners, grant the competent  
public authority the power to derogate, in  
full or in part, from the period provided  
for in paragraph 1 in the following  
circumstances:***

***(a) the object of the transfer consists  
exclusively of one or more seagoing  
vessels,***

***(b) the employer only operates one  
seagoing vessel.’***

### **Amendment 14**

#### **Proposal for a directive**

#### **Article 5 – point 1**

Directive 2001/23/EC

Article 1 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**(1) Paragraph 2 is replaced by the  
following:** *deleted*

***‘2. This Directive shall apply, without  
prejudice to paragraph 3, where and***

*insofar as the undertaking, business or part of the undertaking or business to be transferred is situated within the territorial scope of the Treaty.'*

Or. fr

## Amendment 15

### Proposal for a directive

#### Article 5 – point 2

Directive 2001/23/EC

Article 1 – paragraph 3

#### *Text proposed by the Commission*

3. This Directive shall apply to the transfer of a seagoing vessel ***registered in and/or flying the flag of a Member State and constituting*** an undertaking, business or part of an undertaking or business ***for the purposes of this Directive, even when it is not*** situated within the territorial scope of the Treaty.

#### *Amendment*

3. This Directive shall apply to the transfer of a seagoing vessel ***forming part of the transfer of*** an undertaking, business or part of an undertaking or business ***within the meaning of paragraph 1, provided that the part transferred*** is situated within the territorial scope of the Treaty ***or the undertaking, business or part of an undertaking or business to be transferred remains within the territorial scope of the Treaty.***

***This Directive shall not apply if the object of the transfer consists exclusively of one or more seagoing vessels.***

Or. fr

## Amendment 16

### Proposal for a directive

#### Article 5 – point 3

Directive 2001/23/EC

Article 1 – paragraph 4

#### *Text proposed by the Commission*

***3) The following paragraph 4 is added:***

#### *Amendment*

***deleted***

***‘4. Member States may, after consulting the social partners, provide that Chapter II of this Directive does not apply in the following circumstances:***

***a) the object of the transfer consists exclusively of one or more seagoing vessels,***

***b) the undertaking or business to be transferred operates only one seagoing vessel.’***

Or. fr

## **Amendment 17**

### **Proposal for a directive**

#### **Article 8 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than **5 years** after the date of entry into force of this Directive. The Member States shall immediately communicate to the Commission the text of those provisions.

##### *Amendment*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than **2 years** after the date of entry into force of this Directive. The Member States shall immediately communicate to the Commission the text of those provisions.

Or. fr

## EXPLANATORY STATEMENT

This Commission proposal seeks to improve working conditions for seafarers working on vessels flying the flag of one of the 28 EU Member States while taking proper account of the specific features of the maritime sector. This involves amending the five existing directives from whose scope seafarers are or may be excluded. The Commission draws attention to the fact that the exclusions applying to seafarers in the five directives was not provided for in the Commission's initial proposals but were the outcome of negotiations with the other partners.

The five directives are: Directive 2008/94/EC relating to the protection of employees in the event of the insolvency of their employer; Directive 2009/38/EC on the establishment of a European Works Council; Directive 2002/14/EC establishing a general framework for informing and consulting employees; Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies; and Directive 2001/23/EC relating to the safeguarding of employees' rights in the event of transfers of undertakings.

A draft report on this proposal was rejected by the Committee on Employment and Social Affairs at the end of the last parliamentary term. This was largely due to the fact that the draft report was drawn up in a great hurry because of a lack of time.

The situation has changed since then, however, as a vital agreement on the Commission proposal was reached by the main EU-level social partners a few weeks ago. The rapporteur warmly welcomes the progress brought by that agreement, which puts an end to a situation in which seafarers were discriminated against and to unfair competition between those Member States which wished to improve working conditions and therefore did not apply the exclusions, or applied very few, and those which applied them all. She also welcomes the balance that the social partners have struck between better worker protection and maintaining the competitiveness of the maritime sector, which is of key importance to the EU's future.

The rapporteur would like to thank the social partners for their joint efforts, which will make the maritime sector, which has lost some of its pulling power in recent years, more attractive. Better working conditions for seafarers will give the sector a boost and will help to achieve the goal set in the Commission's Blue Paper of 10 October 2007 of increasing the number of workers in the maritime and fisheries sector and improving their working conditions (the former cannot be achieved without the latter).

The rapporteur would also draw attention to the work carried out with the shadow rapporteurs of all the political groups in the Committee on Employment and Social Affairs. She would like to thank them for putting forward their positions and thus enabling her to take the greatest possible account of the different views held within the committee in her draft report.

On the above basis, the rapporteur would ask you to endorse this report.