



MARITIME TRANSPORT: TRAFFIC AND SAFETY RULES

EU directives and regulations have, over the past few years, greatly improved safety standards in sea transport. The improvements were brought about especially by the three legislative packages adopted in the wake of the Erika and Prestige disasters.

LEGAL BASIS AND OBJECTIVES

Title VI, in particular Articles 91(1)(c) and 100(2), of the Treaty on the Functioning of the European Union is the legal basis. Safety at sea is a key element of maritime transport policy with a view to protecting passengers, crew members, the marine environment and coastal regions. Given the global nature of maritime transport, the International Maritime Organisation (IMO) develops uniform international standards. The primary international agreements include the International Convention for the Prevention of Pollution from Ships (MARPOL), the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). While prompt amendment of EU law to incorporate these international law-based agreements is a major objective of the EU's maritime transport policy, additional measures are also adopted at EU level.

ACHIEVEMENTS

A. Training and qualifications

[Directive 94/58/EC](#) of 22 November 1994 on the minimum level of training of seafarers gave the 1978 STCW Convention the force of EU law. The convention underwent significant revisions in 1995, and again in 2010, entailing corresponding revisions to the EU directive, of which the latest version is [Directive 2012/35/EU](#) of 21 November 2012. This outlines the rules on training and competency standards for seafarer certification, as well as regulated specialist training. The directive also deals with Member States' requirements on seafarer training, communication between crew members, and the verification of crew members' certificates (port state control). It also includes stronger measures to combat fraudulent certification, higher standards for physical aptitude and updated safety training.

[Directive \(EU\) 2017/2397](#) of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC provides a gradual phasing-in with transitional measures to extend professional qualification requirements beyond the level of boat masters to cover all crew in inland navigation in the EU. The updated directive lays down the obligation for deck crew members and persons in charge of emergency procedures to hold



certificates of qualification. Boat masters sailing in hazardous circumstances should be specifically authorised to do so and should be required to demonstrate additional competences.

B. Marine equipment

[Directive 96/98/EC](#) of 20 December 1996 on marine equipment aimed to ensure the uniform application of the SOLAS Convention on equipment for commercial vessels, making the IMO resolutions deriving from it mandatory. [Directive 2012/32/EU](#) amended [Directive 96/98/EC](#) by replacing Annex A to adapt it to the most recent amendments of international conventions and applicable testing standards. [Directive 2014/90/EU](#) of 23 July 2014 on marine equipment strengthened the implementation of the relevant rules and the monitoring of their observance.

C. Security on ships and in port facilities

The ISPS (International Ship and Port Facility Security) Code was adopted at an IMO conference in 2002, together with amendments to other international agreements. The aim of the code is to ensure that ships and port facilities are better protected. [Regulation \(EC\) No 725/2004](#) of 31 March 2004 was designed to ensure that decisions adopted by the IMO are interpreted and implemented uniformly. The European Union Maritime Security Strategy was launched with the adoption on 24 June 2014 of a Council decision approving it as a political and strategic measure for effectively addressing maritime security challenges using all the relevant international, EU and national instruments.

D. Passenger ship safety and ship inspection

The common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (classification societies) were laid down in [Directive 94/57/EC](#) of 22 November 1994. Safety on ships providing scheduled services between two EU ports is regulated by [Directive 2009/45/EC](#) of 6 May 2009, which consolidated and recast the safety rules and standards for passenger ships established by [Directive 98/18/EC](#). [Directive 98/41/EC](#) of 18 June 1998 on the registration of persons sailing on board passenger ships made it possible for passenger numbers to be monitored and for rescue operations to be mounted more efficiently in the event of an accident. Seeking to improve the level of knowledge and skills of seafarers in the EU, the Commission presented a proposal to repeal Directive 2005/45/EC in May 2018. Parliament adopted its position at first reading in April 2019 and the co-decision process is ongoing ([2018/0162\(COD\)](#)).

In 2016, the Commission put forward three legislative proposals, which were voted on in plenary on 4 October 2017 and published on 30 November 2017. The first of the resulting directives, [Directive \(EU\) 2017/2108](#) of 15 November 2017 amending Directive 2009/45/EC on safety rules and standards for passenger ships, seeks to clarify and simplify the safety rules and standards for passenger ships to make them easier to update, monitor and enforce. Amendments to the old directive include removing inconsistent and incorrect references, providing new definitions of different types of ships, clarifying the definition of equivalent material, excluding ships under 24 metres and simplifying the definitions of sea areas. A database will also be established by the Commission to increase transparency and facilitate the notification of exemptions, equivalences and additional safety measures. The second, [Directive](#)



[\(EU\) 2017/2109](#) of 15 November 2017 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 Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States, updates and clarifies the existing requirements for the counting and registration of passengers and crew on board passenger ships. Amendments include updating the definition of 'port areas' in order to introduce information on the nationality of persons on board and obliging companies to store lists of passengers and crew in a National Single Window. The final proposal led to the adoption of [Directive \(EU\) 2017/2110](#) of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service, which amended Directive 2009/16/EC and repealed Council Directive 1999/35/EC. This updates and clarifies the existing survey requirements for ro-ro ferries and high-speed craft and provides for a system of ship-based inspections prior to the commencement of a regular service, which can be combined with a flag state survey on a yearly basis.

E. Developments since the Erika and Prestige disasters

Following the wreck of the oil tankers Erika and Prestige, in 1999 and 2002 respectively, EU safety standards for maritime transport were once again strengthened considerably.

1. Erika I package

[Directive 2001/105/EC](#) of 19 December 2001 strengthened and standardised the legal provisions laid down in [Directive 94/57/EC](#) on ship inspection and survey organisations (see previous section). In particular, it introduced a system of liability in the event of proven negligence. [Directive 2001/106/EC](#) of 19 December 2001 made port state control mandatory for potentially hazardous vessels and introduced a 'blacklist' of ships which can be refused access to EU ports.

[Regulation \(EC\) No 417/2002](#) of 18 February 2002 set a fixed timetable for withdrawing from service single-hull oil tankers and replacing them with safer double-hull vessels. Following the Prestige oil tanker disaster, a more rigorous timetable was adopted in [Regulation \(EC\) No 1726/2003](#) of 22 July 2003. Then [Regulation \(EU\) No 530/2012](#) of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers repealed [Regulation \(EC\) No 417/2002](#) and countered certain potential exemptions under IMO rules. It specified that, for the transport of heavy grade oil, only double-hull oil tankers will be allowed to fly the flag of a Member State, and it banned all single-hull oil tankers, irrespective of the flag, from ports or offshore terminals or from anchoring in areas under the jurisdiction of Member States.

2. Erika II package

[Directive 2002/59/EC](#) of 27 June 2002 established a Community vessel traffic monitoring and information system (SafeSeaNet). Responsibility lies with the owner of a ship, prior to it entering a Member State port, to provide certain information to the relevant port authorities, particularly in the case of dangerous or polluting cargoes. The directive made it mandatory for ships to be equipped with automatic identification systems (AIS) and voyage data recorders (VDRs) or 'black boxes'. The authorities of relevant Member States have the right to prohibit ships from leaving a port in



unfavourable weather conditions. [Regulation \(EC\) No 1406/2002](#) of 27 June 2002 established a European Maritime Safety Agency (EMSA). EMSA's role is to provide Member States and the Commission with scientific and technical support and to ensure that safety rules in maritime transport are enforced. Its remit has been considerably expanded over time to incorporate pollution control (operational assistance at the request of Member States) and satellite-based monitoring systems. [Regulation \(EU\) No 100/2013](#) of 15 January 2013 amended the EMSA Regulation, clarifying EMSA's core and ancillary tasks, as well as detailing the role it should play in facilitating cooperation between Member States and the Commission, by:

- Developing and operating the EU Long-Range Identification and Tracking of Ships (LRIT) European Data Centre and SafeSeaNet;
- Providing relevant vessel positioning and Earth observation data to the competent national authorities and relevant Union bodies; and
- Providing operational support to Member States concerning investigations related to serious casualties.

3. The third maritime safety package and port state control

Following intense negotiations, Parliament and the Council reached agreement in December 2008 on a third legislative package comprising two regulations and six directives:

- A recast of the Directive on port state control ([Directive 2009/16/EC](#) of 23 April 2009) to ensure more frequent and more effective inspections under new monitoring mechanisms linked to potential risk, thus bringing the procedures, instruments and work done in accordance with the Paris Memorandum of Understanding within the field of application of EU law;
- [Directive 2009/21/EC](#) of 23 April 2009 on flag State requirements, which enables compliance on the part of ships flying a Member State flag to be monitored more effectively;
- [Directive 2009/17/EC](#) of 23 April 2009 amending the Directive establishing a Community vessel traffic monitoring and information system (SafeSeaNet), aiming to improve the framework legal conditions concerning places of refuge for ships in distress and to further develop SafeSeaNet;
- [Regulation \(EC\) No 391/2009](#) and [Directive 2009/15/EC](#) of 23 April 2009 establishing common rules and standards for ship inspection and survey organisations, aiming at an independent quality-monitoring system to eliminate the outstanding flaws in inspection and certification procedures for the world fleet;
- [Directive 2009/18/EC](#) of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in maritime transport, with standard principles for investigations at sea of marine casualties and incidents that involve vessels flying the flag of an EU Member State and that occur in the territorial sea or internal waters of a Member State. The directive also established a system for pooling findings, known as the 'permanent cooperation framework', between EMSA, the Commission and the Member States;



- [Regulation \(EC\) No 392/2009](#) of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (based on the 1974 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea as amended by its protocol of 2002);
- [Directive 2009/20/EC](#) of 23 April 2009 setting out the requirements for port state control in respect of ship owners' certificates of insurance against maritime claims (subject to limitation under the 1976 Convention on Limitation of Liability for Maritime Claims as amended by the 1996 protocol thereto).

ROLE OF THE EUROPEAN PARLIAMENT

Parliament has been supportive of maritime safety initiatives and has worked towards bringing about progress in this area. The two Erika maritime safety packages received the support of Parliament and were swiftly concluded, securing improvements. Parliament has also called for a European coastguard service, for piloting in environmentally sensitive and difficult areas, and for clear emergency decision-making and leadership in the Member States (in particular in relation to the mandatory allocation of a place of refuge or emergency port).

As part of the [review](#) of the [Directive](#) on the Community vessel traffic monitoring and information system (SafeSeaNet), Parliament ensured that Member States are required to designate an appropriate authority to take decisions on how shipwrecks can be prevented and on which port should accommodate a ship in need of assistance.

A legal framework for emergency ports, which Parliament had already called for on several occasions, is an essential requirement for the improvement of maritime transport safety. Parliament has thus been the driving force behind the significant improvements made to maritime safety, from the first through to the third maritime safety package (particularly via the work of its temporary MARE Committee in 2004).

In its [resolution](#) on EMSA, Parliament called for the Agency's activities to be expanded. It specifically recommended that its traffic monitoring systems could contribute to a barrier-free European maritime space, which would enable goods and passengers to be transported between Member States by sea with no more formalities than for road transport. By adopting, with the Council, [Regulation \(EU\) No 911/2014](#) of 23 July 2014 on multiannual funding for EMSA action in the field of response to marine pollution caused by ships and oil and gas installations, Parliament contributed to the allocation of EUR 160.5 million to EMSA for the period from 1 January 2014 to 31 December 2020.

In 2018, the Commission published a proposal for a regulation establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU. Parliament adopted its position at first reading on 18 April 2019 and the co-decision procedure is still ongoing ([2018/0139\(COD\)](#)).

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