



2016/0170(COD)

7.2.2017

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DRAFT REPORT

on the 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)0369 – C8-0208/2016 – 2016/0170(COD))

Committee on Transport and Tourism

Rapporteur: Daniela Aiuto

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.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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)0369 – C8 0208/2016 – 2016/0170(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0369),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0208/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the Committee on Legal Affairs on the use of delegated acts,
 - having regard to Rules 59 and 40 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A8-0000/2017),
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.

Amendment 1

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Ship-carried tenders are used to ferry passengers from passenger ships (primarily cruise ships) to shore and back only, and they should not be used for other types of services such as coastal sightseeing excursions, which should be undertaken by ships that meet the requirements for passenger ships of the coastal State, as provided for by inter alia the IMO guidelines (MSC.1/Circ.1417 on Guidelines for passenger ship tenders). The Commission should therefore assess the need for common European requirements, including mandatory provisions, for this category, and issue specific guidelines before 2020, also in order to facilitate the harmonisation of rules and standards between Member States.

Or. en

Justification

Ship-carried tenders should be excluded from the scope of this Directive. The Commission should assess the need for mandatory provisions at EU level, and it should issue specific guidelines.

Amendment 2

Proposal for a directive Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) The offshore installations are served by vessels that transport workers. Those workers are required to pass

mandatory safety trainings and/or mandatory medical fitness criteria. They should therefore be considered to be "special" passengers requiring different and specific safety rules, outside the scope of this Directive. Member States should actively support the work of the IMO in the field of safety standards for offshore vessels further to its resolution MSC.418(97).

Or. en

Justification

The lack of a clear definition for industrial personnel working on offshore installations, and the lack of legally binding international safety standards for the carriage of more than 12 industrial personnel on board in the existing instrument are actually dealt by the IMO in order to define internationally adequate safety standards. Therefore vessels transporting these workers should be excluded by the scope of this Directive, and Member States should actively support IMO in its work.

Amendment 3

Proposal for a directive

Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) Directive 2009/45/EC of the European Parliament and of the Council excludes passenger ships that are not propelled by mechanical means from its scope. It is, however, necessary to clarify in that Directive that sailing ships should not be certified thereunder since their mechanical propulsion is only intended for auxiliary and emergency use. The Commission should therefore assess and issue common European requirements for this category, publishing specific guidelines by 2020. Those guidelines should also facilitate the harmonisation of rules and standards used in Member States.

Or. en

Justification

Sailing ships were already excluded as passenger ships not propelled by mechanical means. It is now specified that even ships fitted with mechanical propulsion intended for auxiliary and emergency use are to be excluded.

Amendment 4

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) In view of the principle of proportionality, the current prescriptive requirements derived from the SOLAS Convention have proven difficult to adapt to small passenger vessels below 24 meters in length. Furthermore, small ships are primarily built in other materials than steel and only a very limited number of such ships have been therefore certified under Directive 2009/45/EC. In the absence of specific safety concerns and adequate standards provided by the Directive, ships ***bellow*** 24 meters in length should ***be therefore*** excluded from its scope and should be subjected to specific safety standards determined by Member States that are better placed to assess the local limitations of navigation for these ships in terms of distance to coast or port and weather conditions.

Amendment

(4) In view of the principle of proportionality, the current prescriptive requirements derived from the SOLAS Convention have proven difficult to adapt to small passenger vessels below 24 meters in length. Furthermore, small ships are primarily built in other materials than steel and only a very limited number of such ships have been therefore certified under Directive 2009/45/EC. In the absence of specific safety concerns and adequate standards provided by the Directive, ships ***below*** 24 meters in length should ***therefore be*** excluded from its scope and should be subjected to specific safety standards determined by Member States that are better placed to assess the local limitations of navigation for these ships in terms of distance to coast or port and weather conditions. ***In determining those standards, Member States should act in accordance with guidelines to be published by the Commission, and taking into consideration also other international agreements and conventions. The Commission should expedite the development of guidelines for these vessels, as provided for by the Commission Work Programme 2017.***

Or. en

Justification

The fitness check showed that the measures foreseen by the Directive are disproportionate if applied to ships built in steel or equivalent material below 24 m. The Commission should speed up the development of guidelines for these vessels, as foreseen in the Commission Work Programme 2017.

Amendment 5

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) To increase the transparency and to facilitate the notification of exemptions, equivalencies and additional safety measures by Member States, a database should be established *and maintained* for this purpose by the Commission. It should include the notified measures in their draft and adopted form.

Amendment

(7) To increase the transparency and to facilitate the notification of exemptions, equivalencies and additional safety measures by Member States, a database should be established, *maintained and made available on a publicly accessible website* for this purpose, by the Commission. It should include the notified measures in their draft and adopted form.

Or. en

Justification

Exemptions, equivalencies and additional safety measures should be made available on a public website granting the access to everyone in order to guarantee full transparency.

Amendment 6

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) In order to take account of developments at international level and experience and to increase transparency, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of excluding amendments to the international instruments from the scope of

Amendment

(9) In order to take account of developments at international level and experience and to increase transparency, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of excluding amendments to the international instruments from the scope of

this Directive if necessary, updating the technical requirements and establishing *conditions of* use for the database kept by the Commission to host notifications by Member States of exemptions and requests for derogation in accordance with the present Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

this Directive if necessary, updating the technical requirements and establishing *detailed arrangements for access to and use of* the database kept by the Commission to host notifications by Member States of exemptions and requests for derogation in accordance with the present Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of

Or. en

Justification

It is necessary to define the detailed arrangements for access to the database.

Amendment 7

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) In order to establish a level playing field for passengers ships operating on voyages from and to Union ports, irrespective of the nature of the voyages they are engaged on, the Union action in view of expediting the *ongoing* work within the IMO to revise the regulations of the SOLAS Convention should be brought in line with the Treaty on the Functioning of the European Union.

Amendment

(10) In order to establish a level playing field for passengers ships operating on voyages from and to Union ports, irrespective of the nature of the voyages they are engaged on, the Union action in view of expediting the work within the IMO to revise *and to improve* the regulations of the SOLAS Convention should be brought in line with the Treaty on the Functioning of the European Union.

Justification

It is necessary that the Union takes a proactive approach in revising and improving the regulations of the SOLAS Convention.

Amendment 8**Proposal for a directive****Recital 11 a (new)**

Text proposed by the Commission

Amendment

(11a) In order to maintain a high level of safety, it is necessary to take into account the link between safety, shipboard living, working conditions and training, since the human element is a fundamental part of ship safety and the procedures related to it. The Union should therefore keep a proactive role, also in the international framework, in order to monitor and improve the social dimension for workers on the ships.

Or. en

Justification

The social dimension, the working conditions, the training of workers, the shipboard living have a direct impact and link with the safety of passengers ships.

Amendment 9**Proposal for a directive****Article 1 – paragraph 1 – point 1 – point j**

Directive 2009/45/EC

Article 2 – point ze

Text proposed by the Commission

Amendment

‘(ze) ‘tender’ means a ship-carried boat used for transferring more than 12 passengers from a stationary passenger ship to shore and back;’

‘(ze) ‘tender’ means a ship-carried boat ***that is only*** used for transferring more than 12 passengers from a stationary passenger ship ***directly*** to shore and back, ***without***

intermediate stops;’

Or. en

Justification

Tenders must travel the shortest and safest route to shore and back only.

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 5 – point e

Directive 2009/45/EC

Article 6 – paragraph 6

Text proposed by the Commission

‘6. Ships built in an equivalent material before the entry into force of this Directive shall comply with its requirements by [5 years after the date referred to in the second subparagraph of Article 2(1)].;’

Amendment

‘6. Ships built in an equivalent material before the entry into force of this Directive shall comply with its requirements by [7 years after the date referred to in the second subparagraph of Article 2(1)].;’

Or. en

Justification

The number of years is aligned with the provisions of Article 16a related to the review of the Directive.

Amendment 11

Proposal for a directive

Article 1 – paragraph 1 – point 8 – point b

Directive 2009/45/EC

Article 9 – paragraph 4 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

‘Any such measures shall be applied to all passenger ships of the same Class or to craft when operating under the same specified conditions, without discrimination with regard to their flag or to the nationality or place of

establishment of their operator.’

Or. en

Justification

This subparagraph was already part of the Directive.

Amendment 12

Proposal for a directive

Article 1 – paragraph 1 – point 8 – point b

Directive 2009/45/EC

Article 9 – paragraph 4 – subparagraph 4 b (new)

Text proposed by the Commission

Amendment

‘The measures referred to in paragraph 3 shall apply only for as long as the ship or craft operates under the specified conditions.’

Or. en

Justification

This subparagraph was already part of the Directive.

Amendment 13

Proposal for a directive

Article 1 – paragraph 1 – point 8 – point b

Directive 2009/45/EC

Article 9 – paragraph 4 – subparagraph 5

Text proposed by the Commission

Amendment

‘The measures referred to in the second and fourth subparagraph shall be notified by means of a database established **and maintained** by the Commission for such purpose. The Commission is empowered to adopt delegated acts in accordance with Article 10a concerning the **conditions** of access **to** this database.’

‘The measures referred to in the second and fourth subparagraph shall be notified by means of a database established, **maintained and made available on a publicly accessible website** by the Commission for such purpose. The Commission is empowered to adopt delegated acts in accordance with Article 10a concerning the **detailed arrangements**

for access to this database.;'

Or. en

Justification

Exemptions, equivalencies and additional safety measures should be made available on a public website granting the access to everyone in order to guarantee full transparency.

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 9 – point b

Directive 2009/45/EC

Article 10 – paragraph 4

Text proposed by the Commission

'4. The Commission is empowered to adopt delegated acts in accordance with Article 10a, amending this Directive in order to exclude from its scope any amendment to the international instruments referred to in Article 2 only if, on the basis of an evaluation by the Commission, there is a manifest risk that the international amendment will lower the standard of maritime safety, of prevention of pollution from ships or of protection of shipboard living and working conditions established by Union maritime legislation, or be incompatible with the latter.;'

Amendment

'4. In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid serious and unacceptable threat to maritime safety, to health, to shipboard living, to working conditions, or to the marine environment, or incompatibility with Union maritime legislation, and in order not to lower the existing standard of maritime safety, the Commission is empowered to adopt delegated acts in accordance with Article 10a, amending this Directive in order not to apply, for the purposes of this Directive, an amendment to the international instruments referred to in Article 2;'

Or. en

Justification

The text is similar to the Commission proposal, but it clarifies clearer the circumstances.

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 14

Text proposed by the Commission

‘1. With regard to passenger ships engaged on international voyages the Union shall submit proposals to the IMO to expedite the **ongoing** work within the IMO to revise the regulations of the 1974 SOLAS Convention, in its up-to-date version, containing issues left to the discretion of the Administration, to establish harmonised interpretations for those regulations and to adopt amendments to the latter accordingly.’

Amendment

‘1. With regard to passenger ships engaged on international voyages the Union shall submit proposals to the IMO to expedite the work within the IMO to revise **and to improve** the regulations of the 1974 SOLAS Convention, in its up-to-date version, containing issues left to the discretion of the Administration, to establish harmonised interpretations for those regulations and to adopt amendments to the latter accordingly.’

Or. en

Justification

It is necessary that the Union takes a proactive approach in revising and improving the regulations of the SOLAS Convention.

EXPLANATORY STATEMENT

Commission proposal

Directive 2009/45/EC sets safety rules and standards for new and existing passenger ships made of steel and equivalent material and high-speed craft which provide domestic services in the Member States of the EU. It implements at the level of the EU the provisions of the IMO SOLAS Convention which establishes the technical requirements for vessel construction, stability, machinery, electrics, fire safety and life-saving equipment for passenger ships, that is, ships carrying more than 12 passengers. The domestic passenger ship fleet in the EU includes about 3175 vessels which navigate in different sea areas classified under the directive, and about 900 ships which operate only in designated port areas.

The revision of the present rules follows a fitness check of the existing passenger ship safety legislation by the Commission, including consultations with Member States and stakeholders. This check showed that certain ambiguities in the legal provisions have led to differing interpretations by national authorities, in particular about whether smaller ships and certain other kinds of ships are covered by the directive or not. The Commission proposal seeks to simplify and clarify the corresponding requirements. The revised directive will, in particular:

- exclude all passenger ships below 24 metres, whether existing or new, from the scope, leaving the relevant safety standards for regulation at Member State level (Art. 3),
- exclude off-shore service vessels which transport workers to offshore installations such as wind-farms, as well as tenders which are (ship-carried) boats used to transfer passengers from a stationary passenger ship such as a cruise-ship to shore and back (Art.2),
- exclude sailing ships if equipped with auxiliary mechanical propulsion, as well as pleasure yachts, and traditional ships, by defining them more precisely (Art. 2),
- include passenger ships built from aluminium explicitly in the scope, by recognizing aluminium as a material equivalent to steel (Art. 2).

In addition, the classification of sea areas, depending on the risk for ships operating in a particular part of the sea, is streamlined and the criteria relating to points of refuge, where shipwrecked persons can land, are replaced by a clearer reference to the distance from the coast line. Furthermore, a database is to be established by the Commission to host and make available the required notifications from Member States on exemptions, equivalent or additional safety measures they may adopt with respect to the requirements of the directive (Art. 14). Finally, a range of technical definitions are updated.

Rapporteur's position

Your rapporteur underlines that the chief purpose of the passenger ship safety regulation in must be to ensure that passengers and crew can travel safely on board of passenger ships and boats in the EU. The proposed simplification should indeed help to fully implement, monitor

and enforce the rules in the Member States and thereby contribute to maintain a high overall safety level.

Your rapporteur overall supports the Commission proposal and acknowledges the findings of the preceding REFIT evaluation, but your rapporteur considers that there are a number of areas where the proposal needs to be strengthened and amended. As foreseen by the proposal, further technical work to clarify the definition of equivalent material should also facilitate the implementation of the updated rules in Member States where passenger ships built in aluminium are providing domestic services.

Guidance on safety standards for smaller and exempted ships

Smaller ships below 24 metres are widely used in passenger transport. Such ships can also be significant vessels carrying up to 250 passengers, as was also noted by the EESC. While it might be out of proportion to impose the same requirements as for larger passenger ships, it is important to maintain strong safety rules and standards when it is up to Member State to set the rules for such ships navigating in their waters. Your rapporteur therefore proposes that the Commission provides guidance to Member States, industry and operators. Such a “small craft code” will facilitate convergence in the safety rules and checks applied in Member States.

Ship-carried tenders are used to ferry passengers from passenger ship (primarily cruise ships) to shore and back only. Your rapporteur is concerned that such ships should not be used for other types of services such as coastal sightseeing excursions. These should only be undertaken by ships that meet the requirements for passenger ships of the coastal state. The Commission should therefore assess the need for common European requirements, including mandatory provisions and issue specific guidelines for this category, with a view to facilitating the harmonization of rules and standards between Member States.

Off-shore service ships are excluded from the scope based the fact they carry industrial personnel rather than passengers to offshore installations. As at present there is a lack of internationally agreed standard regarding the definition and carriage of industrial personnel which is to be addressed at the level of the IMO. Your rapporteur therefore calls on Member States to actively support the IMO work for the definition of adequate safety standards of offshore vessels.

Sailing ships were already excluded from the directive as passenger ships not propelled by mechanical means. Under the new rules it is now specified that even ships fitted with mechanical propulsion for auxiliary and emergency purposes are to be excluded. In order to maintain harmonised safety levels for sailing ships in Europe, your rapporteur suggests that Commission assesses and issues common requirements for this category, publishing specific guidelines by 2020.

Transparency

The directive allows Member States to take measures to improve safety standards in order to address specific local circumstances, to put in place national rules which are equivalent to a requirement of the directive, or to exempt ships from certain requirements under certain operation conditions (season, daytime, sea conditions etc.). Such measures must be notified to the Commission and, once adopted, also communicated to other Member States. In order to guarantee full transparency, including to the public, any exemption, equivalency or additional

safety measure should be published on a publically accessible website. The general modalities of access to and use of the respective database should be specified in due time by the Commission, through an appropriate delegated act.

Safety standards and ship crew

For maintaining a high level of safety throughout a passenger ships voyage, it is important to take into account not only the vessels' physical structure and equipment but also to take into account the link between safety, shipboard living, working conditions and training of the crew. Clearly, the human element is a fundamental part of the whole process. Your rapporteur believe the directive should spell out that the EU needs to take a proactive approach in this role, including in the international framework, in order to monitor and improve the social dimension of workers on the ships.