



21.12.2022

# **PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS**

**Subject: Proposal for a directive European Parliament and the Council  
(COM(2022)0053 – C9-0047/2022 – 2022/003(COD))**

The interinstitutional negotiations on the aforementioned proposal for a directive have led to a compromise. In accordance with Rule 74(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Committee on Transport and Tourism for decision by way of a single vote.

**DIRECTIVE (EU) 2023/...**

**OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**amending Directive 2003/25/EC as regards the inclusion of improved stability requirements and the alignment of that Directive with the stability requirements defined by the International Maritime Organization**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

After consulting the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>1</sup> OJ C 323, 26.8.2022, p. 119.

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Position of the European Parliament of ... 2023 (not yet published in the Official Journal) and decision of the Council of ...

Whereas:

- (1) Directive 2003/25/EC of the European Parliament and of the Council<sup>4</sup> establishes a uniform level of specific stability requirements for ro-ro passenger ships improving the survivability of this type of vessel in case of collision damage and providing a high level of safety for the passengers and the crew in combination with the requirements set out in the International Convention for the Safety of Life at Sea (the ‘SOLAS Convention’) in force at the date of adoption of the Directive (the ‘SOLAS 90’).
- (2) On 15 June 2017, the International Maritime Organization (‘IMO’) adopted Resolution MSC.421(98) setting out revised specific provisions on stability requirements for passenger ships in damaged condition which apply also to ro-ro passenger ships. It is necessary to take into account those developments at international level and to align the Union rules and requirements with those established in the SOLAS Convention for ro-ro passenger ships engaged in international voyages.

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<sup>4</sup> Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships (OJ L 123, 17.5.2003, p. 22).

- (3) IMO Resolution 14 of the 1995 SOLAS Conference allowed IMO members to conclude regional agreements if they consider that prevailing sea conditions and other local conditions require specific stability requirements in a designated area. ■
- (3a) *The deterministic damage stability requirements for ro-ro passenger ships set out in Annex I to Directive 2003/25/EC differ from the new international probabilistic requirements, where the safety of a ro-ro passenger ship is measured based on the probability of survival after a collision. The international probabilistic regime is set out in chapter II-1 of the SOLAS Convention. The new requirements should be incorporated in Directive 2003/25/EC.*
- (4) Requirements laid down in Directive 2009/45/EC of the European Parliament and of the Council<sup>5</sup> remain applicable to ro-ro passenger ships. The assessment for different sizes of ro-ro passenger ships of the safety level ensured by the SOLAS 2020 requirements led to the conclusion that the application of these stability requirements would result in a significant risk reduction for ro-ro passenger ships certified to carry more than 1350 persons on board, compared to the safety level ensured by the requirements set out in Directive 2003/25/EC

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<sup>5</sup> Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

- (5) Stability requirements laid down in this Directive for ro-ro passenger ships certified to carry 1350 or fewer persons on board would be difficult to implement for certain designs of those ships. Therefore, companies owning or operating those ships in a regular service in the Union should have the option to apply the stability requirements applicable before the entry into force of this Directive. The use of such option should be notified by Member States to the Commission together with a set of data related to the ships concerned. Ten years after the date of entry into force of this Directive, the Commission should assess the use of the option in order to decide about a further revision of this Directive.
- (6) For ro-ro passenger ships certified to carry 1350 or fewer persons on board, the optional application of the SOLAS 2020 requirements should be conditional to a higher level of the R-index than the one defined in SOLAS 2020 to achieve the appropriate level of safety.
- (7) In order to ensure the necessary level of safety, specific damage stability requirements should apply also to existing ro-ro passenger ships that have never been certified according to Directive 2003/25/EC and are entering into regular service in the Union.

- (7a) *Port States should cooperate to the fullest extent possible in order to establish the list of sea areas referred to in this Directive, taking into account the sovereignty of States over sea areas under their jurisdiction and general principles of the law of the sea.*
- (7b) *The European Maritime Safety Agency (EMSA) has been assisting the Commission in the effective implementation of Directive 2003/25/EC and should endeavour to continue such assistance in line with Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>6</sup>*
- (8) In order to enable the Commission to evaluate and report to the European Parliament and the Council on the implementation of this Directive by *[ten years from the entry into force of this amending Directive]*, Member States should provide data on every new ro-ro passenger ship that is certified after *[18 months from the entry into force of this amending Directive]* **to carry 1350 or fewer persons on board** for regular service in compliance with the stability requirements contained in this Directive. ***This data should be provided in accordance with*** the structure set out in the Annex. ***This data is to be available for all new ro ro passenger ships, as they are required to comply with the probabilistic stability requirements as provided for by SOLAS 2020.***

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<sup>6</sup> *Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).*

(9) As Directive 2009/16/EC of the European Parliament and of the Council<sup>7</sup> was amended, and Council Directive 1999/35/EC<sup>8</sup> was repealed by Directive (EU) 2017/2110 of the European Parliament and of the Council<sup>9</sup>, the concept of the ‘host State’ is no longer relevant and should therefore be replaced by that of ‘port State’.

***(9a) In order not to impose a disproportionate administrative burden on landlocked Member States which have no seaports and which have no ro-ro passenger ships flying their flag that fall within the scope of Directive 2003/25/EC, such Member States should be allowed to derogate from the provisions of Directive 2003/25/EC. This means that as long as those conditions are fulfilled, they are not obliged to transpose that Directive.***

(10) Directive 2003/25/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

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<sup>7</sup> Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

<sup>8</sup> Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services (OJ L 138, 1.6.1999, p. 1).

<sup>9</sup> Directive (EU) 2017/2110 of the European Parliament and of the Council 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 and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC (OJ L 315, 30.11.2017, p. 61).

## *Article 1*

### *Amendments to Directive 2003/25/EC*

Directive 2003/25/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) points (b) and (c) are replaced by the following:

“(b) ‘existing ro-ro passenger ship’ means a ro-ro passenger ship the keel of which is laid or which is at a similar stage of construction before [ **18 months after the date of entry into force of this amending Directive**]: a similar stage of construction means the stage at which:

- (i) construction identifiable with a specific ship begins; and
- (ii) assembly of that ship has commenced comprising at least 50 tonnes or 1 % of the estimated mass of structural material, whichever is less;

(c) ‘new ro-ro passenger ship’ means a ro-ro passenger ship which is not an existing ship;”;

(b) point (e) is replaced by the following:

“(e) ‘SOLAS Convention’ means the 1974 International Convention for the Safety of Life at Sea and amendments thereto in force;”;



(c) the following points (ea), (eb) and (ec) are inserted:

“(ea) ‘SOLAS 90’ means the 1974 International Convention for the Safety of Life at Sea, as *last* amended by ■ Resolution MSC.117(74);

(eb) ‘SOLAS 2009’ means the 1974 International Convention for the Safety of Life at Sea as *last* amended by Resolution MSC.216(82);

(ec) ‘SOLAS 2020’ means the 1974 International Convention for the Safety of Life at Sea as *last* amended by Resolution MSC.421(98);”;

(d) point (f) is replaced by the following:

“(f) ‘regular service’ means a series of ro-ro passenger ship crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:

(i) according to a published timetable; or

(ii) with crossings so regular or frequent that they constitute a recognisable systematic series;”;

(e) point (i) is replaced by the following:

“(i) ‘Port State’ means a Member State to or from whose ports a ro-ro passenger ship is engaged on a regular service;”;

(f) point (k) is replaced by the following:

“(k) ‘specific stability requirements’ means the stability requirements referred to in Article 6;”;

(g) the following point (*na*) is added:

***“(na) ‘company’ means the owner of a ro-ro passenger ship or any other organisation or person, such as the manager or the bareboat charterer, who has assumed responsibility for operating the passenger ship from the owner”;***

(2) in Article 3, paragraph 2 is replaced by the following:

“2. Each Member State, in its capacity as Port State, shall ensure that ro-ro passenger ships flying the flag of a State which is not a Member State comply fully with the requirements of this Directive before they may be engaged on voyages in regular service from or to ports of that Member State in accordance with Directive 2017/2110/EC of the European Parliament and of the Council<sup>10</sup>.”;

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<sup>10</sup> Directive (EU) 2017/2110 of the European Parliament and of the Council 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 and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC (OJ L 315, 30.11.2017, p. 61).

(2a) *in Article 3, the following paragraph is added:*

*“3. Member States that do not have seaports and which have no ro-ro passenger ships flying their flag that fall within the scope of this Directive may derogate from the provisions of this Directive except for the obligation set out in the second subparagraph.*

*Those Member States which intends to avail themselves of such derogation shall communicate to the Commission [18 months after the date of entry into force of this amending Directive] if the conditions are met and shall inform the Commission of any subsequent change. Such Member States may not ro-ro passenger ships that fall within the scope of this Directive to fly their flag until they have transposed and implemented this Directive.”;*

(3) Article 4 is replaced by the following:

“Article 4

Significant wave heights

The significant wave heights ( $h_s$ ) shall be used for determining the height of water on the car deck when applying the specific stability requirements contained in section A of Annex I. The figures of significant wave heights shall be those which are not exceeded by a probability of more than 10 % on a yearly basis.”;

(4) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Port States shall establish and keep updated a list of sea areas crossed by ro-ro passenger ships operating on regular service to or from their ports as well as the corresponding values of significant wave heights in these areas.”;

(b) paragraph 3 is replaced by the following:

“3. The list shall be published in a public database available on the internet site of the competent maritime authority. The location of such information as well as any updates to the list and the reasons for such updates shall be notified to the Commission.”;

(5) Article 6 is replaced by the following:

“Article 6

Specific stability requirements

1. Without prejudice to the application of Directive 2009/45/EC, new ro-ro passenger ships certified to carry more than 1350 persons on board shall comply with the specific stability requirements set out in SOLAS 2020, Chapter II-1, Part B.
2. Upon the choice of the *company*, new ro-ro passenger ships certified to carry 1350 or fewer persons on board shall comply with:
  - (a) the specific stability requirements set out in Annex I, section A, to this Directive, or
  - (b) the specific stability requirements set out in Annex I, section B, to this Directive.

For each such ship, the administration of the Flag State shall notify the Commission within a period of two months from the date of issuance of the certificate referred to in Article 8 of the choice made of the option referred to in points a or b of the first subparagraph and include with such notification the details referred to in Annex III.

3. In applying the requirements set out in Annex I, section A, Member States shall use the guidelines set out in Annex II, insofar as this is practicable and compatible with the design of the ship in question.
4. Upon the choice of the **company**, existing ro-ro passenger ships certified to carry more than 1350 persons on board, introduced to the regular service operation to or from a port of a Member State after *[18 months after the date of entry into force of this amending Directive]* which were never certified according to this Directive, shall comply with:
  - (a) the specific stability requirements set out in SOLAS 2020, Chapter II-1 Part B; or
  - (b) the specific requirements set out in Annex I, section A, to this Directive, in addition to those laid down in SOLAS 2009, Chapter II-1 Part B.

The applied stability requirements shall be noted in the ship's certificate required under Article 8.

5. Upon the choice of the **company**, existing ro-ro passenger ships certified to carry 1350 or fewer persons on board, introduced to the regular service operation to or from a port of a Member State after *[18 months after the date of entry into force of this amending Directive]* which were never certified according to this Directive, shall comply with:
- (a) the specific stability requirements set out in Annex I, section A, to this Directive, **or**
  - (b) the specific stability requirements set out in Annex I, section B, to this Directive,

■ .

The applied stability requirement shall be noted in the ship's certificate referred to in Article 8.

6. Existing ro-ro passenger ships that were engaged in regular service operation to or from a port of a Member State by *[18 months after the date of entry into force of this amending Directive]* shall comply with the specific stability requirements set out in Annex I as it stood before the entry into force of *[OP: please insert the title and number of this amending Directive]."*

- (6) Article 7 is deleted.
- (7) Article 8 is replaced by the following:

“Article 8

#### Certificates

1. All new and existing ro-ro passenger ships flying the flag of a Member State shall carry a certificate confirming compliance with the specific stability requirements referred to in Article 6.

The certificates shall be issued by the administration of the flag State and may be combined with other related certificates. For ro-ro passenger ships complying with the specific stability requirements encoded in Annex I, section A, the certificate shall indicate the significant wave height up to which the ship can satisfy the specific stability requirements.

The certificate shall remain valid as long as the ro-ro passenger ship operates in an area with the same or a lower value of significant wave height.

2. Each Member State acting in its capacity as Port State shall recognise certificates issued by another Member State in compliance with this Directive.
3. Each Member State acting in its capacity as Port State shall accept certificates issued by a third country certifying that a ro-ro passenger ship complies with the specific stability requirements laid down in this Directive. ”;



(8) Article 9 is replaced by the following

“Article 9

Seasonal and short-time period operations

1. If a company operating a regular service on a year-round basis wishes to introduce additional ro-ro passenger ships to operate for a shorter time period on that service, it shall notify the competent authority of the Port State or States not later than one month before said ships are operated on that service.
2. However, in cases where, following unforeseen circumstances, a replacement ro-ro passenger ship must be introduced rapidly to ensure continuity of service, instead of the notification requirement of paragraph 1, Article 4(4) of Directive (EU) 2017/2110 and Annex XVII, point 1.3, to Directive 2009/16/EC of the European Parliament and of the Council<sup>11</sup> shall apply.
3. If a company wishes to operate seasonally a regular service for a shorter time period not exceeding six months a year, it shall notify the competent authority of the Port State or States no later than three months before such operation takes place.

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<sup>11</sup> Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

4. For ro-ro passenger ships complying with the specific requirements in Annex I, section A, where operations, as referred to in paragraphs 1 and 2 of this Article, take place under conditions of lower significant wave height than those established for the same sea area for all-year-round operation, the significant wave height value applicable for this shorter time period may be used by the competent authority for determining the height of water on the deck when applying the specific stability requirements contained in Annex I, section A. The value of the significant wave height applicable for this shorter time period shall be agreed between the Member States or, wherever applicable and possible, between Member States and third countries at both ends of the route.
5. Following agreement of the competent authority of the Port State or States for operations within the meaning of paragraphs 1 and 3, the ro-ro passenger ship which undertakes such operations shall be required to carry a certificate confirming compliance with the provisions of this Directive, as provided for in Article 8(1).”;

- (9) The following Article is inserted:

“Article 13a

Review

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council by [*: ten years from the date of entry into force of this amending Directive*]. Information based on the notifications referred to in Article 6(2) shall be made available in anonymised form.”;

- (10) Annexes I and II to Directive 2003/25/EC are amended in accordance with Annex I to this Directive;

- (11) The text set out in Annex II to this Directive is added as Annex III to Directive 2003/25/EC.

## *Article 2*

### *Transposition*

1. Member States shall adopt and publish, by [**18 months** from the date of entry into force of this amending Directive] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

### *Article 3*

#### *Entry into force*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

### *Article 4*

#### *Addressees*

This Directive is addressed to the Member States.

Done at ...

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

### 1. Annex I is amended as follows :

#### (a) After the title, the following is inserted:

‘Section A’

#### (b) The following introductory sentence is inserted:

‘For the purpose of this section A, references to the SOLAS Convention regulations shall be construed as references to those regulations as they applied under SOLAS 90.’

#### (c) Point 1 is replaced by the following:

‘1. In addition to the requirements of Regulation II-1/B/8 of the SOLAS Convention relating to watertight subdivision and stability in damaged condition, the requirements of this section shall be complied with.’;

#### (d) Point 3.1 is replaced by the following:

‘3.1. For ships, which are to be operated only for a shorter season as referred to in Article 9, the Port States included in the route shall agree on the applicable significant wave height.’;

(e) The following section B is inserted:

‘Section B

The requirements of SOLAS 2020, Chapter II-1 Part B shall be complied with. However, by way of derogation from SOLAS 2020, Regulation II-1/B/6.2.3, the required subdivision index R shall be determined as follows:

Persons on board (N)	Subdivision Index (R)
$N < 1000$	$R = 0.000088 * N + 0.7488$
$1000 \leq N \leq 1350$	$R = 0.0369 * \ln (N + 89.048) + 0.579$

Where:

N = total number of persons on board.’

2. Annex II is amended as follows:

The introductory paragraph in “Application” is replaced by the following:

“In line with the provisions of Article 6(3) of this Directive, these guidelines shall be used by the national administrations of Member States in the application of the specific stability requirements set out in Annex I, section A, in so far as this is practicable and compatible with the design of the ship in question. The paragraph numbers appearing below correspond to those in Annex I, section A.”;

## ANNEX II

### “ANNEX III - NOTIFICATION DETAILS

Data to be notified in accordance with Article 6(2):

#### I. General data

- (1) Applicable stability requirements: Section A or section B of Annex I
- (2) Ship's identification number (IMO number, Call sign)
- (3) Main particulars;
- (4) General Arrangement plan
- (5) Number of persons on board
- (6) GT
- (7) Is the ship double ended: Yes/No
- (8) Does the ship have long lower holds: Yes/No



II. Specific data - for ro-ro passenger ships *subject to SOLAS probabilistic requirements*

- (1)  $d_l, d_p, d_s$ ;
- (2) R – required index;
- (3) layout plan (watertight integrity plan) for the sub-compartments with all internal and external opening points including their connected sub-compartments, and particulars used in measuring the spaces, such as general arrangement plan and tank plan. The subdivision limits, longitudinal, transverse and vertical, must be included<sup>1</sup>;
- (4) attained subdivision index A with a summary table for all contributions for all damaged zones<sup>2</sup> with a separate column with the attainable subdivision index ( $w \cdot p \cdot v$ );
- (5) for 1 and 2 Zone damage cases, the percentage of damage cases that were not investigated (i.e. cases not included in the factor ( $w \cdot p \cdot v$ )), that  $s=0$ ,  $s = 1$  and  $0 < s < 1$ ;

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<sup>1</sup> This documentation is to be submitted to Administrations according to point 2.2 of the Appendix to IMO Resolution MSC.429(98).

<sup>2</sup> This documentation is to be submitted to Administrations according to point 2.3.1 of the Appendix to IMO Resolution MSC.429(98).

- (6) for 1 and 2 Zone damage cases, the percentage of damage cases involving ro-ro spaces that were not investigated (i.e. cases not included in the factor  $(w \cdot p \cdot v)$ ), that  $s=0$ ,  $s = 1$  and  $0 < s < 1$ ;
- (7) for each damage which contributes to the attained subdivision index A, identification of flooded spaces, contribution value and factor «s»<sup>3</sup>;
- (8) particulars of non-contributing damages ( $s = 0$  and  $p > 0$ ) for ro-ro passenger ships fitted with long lower hold, including full details of the calculated factors<sup>4</sup>.

### III. Specific data - for ro-ro passenger ships applying Annex I, section A

– Method of compliance:

- Model Tests
- Calculations

Please indicate whether the water on deck calculations has been avoided due to, for example, the residual freeboard being higher than 2.0 m in all damage cases: Yes/No

– Significant wave height pursuant to Directive 2003/25/EC.”

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<sup>3</sup> This documentation is to be submitted to Administrations according to point 2.3.1 of the Appendix to IMO Resolution MSC.429(98).

<sup>4</sup> This documentation is to be submitted to Administrations according to point 2.3.1 of the Appendix to IMO Resolution MSC.429(98).