

# Revised rules on the European Maritime Safety Agency (EMSA)

## OVERVIEW

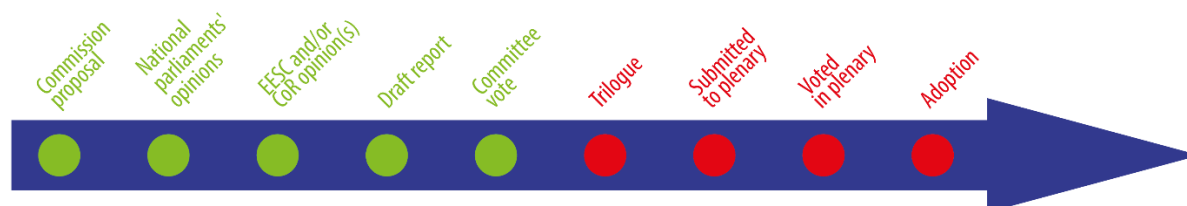
On 1 June 2023, the European Commission presented the maritime safety package, focused on introducing modernised maritime safety and security rules on port state and flag state control, maritime accident investigation and ship source pollution. The package also includes a proposal to revise the Regulation on the European Maritime Safety Agency (EMSA).

The revised regulation would give EMSA new and more numerous tasks since the last major revision of its mandate in 2013 and aim to make it 'future proof'. Furthermore, it seeks to take better account of EMSA's current tasks and objectives, which means that the agency would be legally mandated to fulfil these and provide EU Member States and the European Commission with technical, operational and scientific assistance, to ensure maritime safety, security and the green and digital transition of the maritime sector. At the same time, the agency would be provided with adequate human and financial resources to fulfil its role.

In the European Parliament, the Committee on Transport and Tourism (TRAN) is leading the work on this legislative file. The committee report was adopted on 7 December 2023, along with a mandate to open trilogue negotiations.

### **Proposal for a Regulation of the European Parliament and of the Council on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002**

<i>Committee responsible:</i>	Transport and Tourism Committee (TRAN)	COM(2023)269 1.6.2023
<i>Rapporteur:</i>	Cláudia Monteiro de Aguiar (EPP, Portugal)	2023/0163(COD)
<i>Shadow rapporteurs:</i>	Sara Cerdas (S&D, Portugal) Caroline Nagtegaal (Renew, the Netherlands) Jutta Paulus (Greens/EFA, Germany) Roberts Zile (ECR, Latvia) João Pimenta Lopes (The Left, Portugal)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Trilogue negotiations	



## Introduction

Maritime transport is a vital part of the globalised economy and a lifeline for the EU and its remote maritime regions (80% of the EU's external trade is seaborne). At present, the level of safety in EU waters is very high, yet accidents and incidents continue to occur at an [average](#) of 2 000 per year. To address this situation, the European Commission has presented a set of [proposals for maritime safety](#) seeking to modernise EU rules in this area and to equip the EU with new tools to support clean and modern shipping.

One of the above proposals is to revise the [Regulation on the European Maritime Safety Agency](#) (EMSA), without making fundamental changes to its role or tasks. EMSA's current tasks cover maritime safety, sustainability and environmental protection, coast guard activities, maritime surveillance and digital services. The proposed revision aims to align EMSA's mandate with its role in supporting the sustainability and digitalisation of the maritime sector, as well as to update the agency's tasks in light of the evolving security challenges at sea, including cybersecurity and hybrid threats. The agency would furthermore need to be made future proof regarding developments in the areas of alternative fuels and autonomous shipping.

The proposal takes into consideration the new tasks the agency has had to take on following the adoption of the Green Deal and the linked 'fit for 55' package, and more specifically following the parallel legislative developments in maritime safety (among them the extension of the emissions trading system ([ETS](#)) to maritime transport and the launch of the [FuelEU Maritime](#) Initiative as part of the 'fit for 55' package).

## Existing situation

EMSA was established as part of the [Erika II](#) maritime safety package on 27 June 2002, to provide support to the EU and the Member States in achieving maritime safety. Since the last revision of its mandate in 2013, EMSA has assumed various new tasks. The most recent update to the regulation and the adoption of its [current version](#) was made in 2016, with the objective to provide a high, uniform and effective level of maritime safety and security, including the prevention of and response to pollution caused by ships. At present, EMSA has 280 staff, whose tasks include:

- supporting and advising the EU and Member States in the implementation, monitoring and evaluation of relevant legislation;
- provision of a wide range of centralised tools in support of operations such as vessel traffic monitoring, remote observations for early warning and the maintenance of databases for ship inspection or accident reporting;
- maintaining a fleet and equipment for assistance in pollution response actions on the request of the Member States or third countries sharing a regional basin with the EU;
- providing training courses and centralised training tools for the Member States.

The current challenge with regard to EMSA is to better anchor and reflect its tasks and objectives in its founding regulation. Doing so would give it the legal mandate to fulfil these tasks and objectives and to provide the Member States and the Commission with the needed technical, operational and scientific assistance to ensure maritime safety, security and the green and digital transitions of the maritime sector. Another challenge is to make the regulation future-proof by making it flexible enough to reflect the evolving needs of the maritime sector and to ensure that EMSA has adequate human and financial resources to fulfil its role.

## Parliament's starting position

Since EMSA was first established, the European Parliament has advocated giving it a stronger mandate in a number of resolutions.

In its [resolution](#) of 27 April 2021 on measures for more efficient and cleaner maritime transport, Parliament highlighted EMSA's potential for monitoring oil pollution and illegal discharges of fuel residues at sea. It called upon the Commission to strengthen information exchange and cooperation among countries.

On 16 September 2021, Parliament adopted a [resolution](#) on attracting a new generation of labour to the fishing industry and generating employment in coastal communities. In the resolution, Parliament highlighted the need for improved working and living conditions on board, but also safety, and expressed its concern over the monitoring and prevention of marine incidents and accidents. Parliament proposed expanding EMSA's mandate – which it saw as rather limited for the time being – to include monitoring and reporting on incidents and accidents, involving those vessels that are currently not covered by the EMSA Regulation.

In its [resolution](#) of 5 May 2022 on the impact of the Russian war against Ukraine on the EU transport and tourism sectors, Parliament recalled EMSA's capacity to support sanctions related to the maritime domain, for instance by supplying a list of Russian or [re-flagged vessels](#) that should be banned from EU ports. Furthermore, EMSA should provide guidance on the uniform application of such sanctions, maintaining a level playing field for EU ports.

On 18 April 2023, Parliament adopted a [resolution](#) on the revision of the European emissions trading system (ETS). Parliament [insisted](#) that EMSA should assist the administering authorities in respect of shipping companies, in particular as regards the monitoring, reporting and verification of emissions generated by shipping companies' maritime transport activities. Parliament therefore tasked the Commission to establish, with EMSA assistance, adequate tools and new guidance for the facilitation and coordination of verifying and enforcing activities envisaged in the proposed [revised version](#) of the ETS Directive.

## Preparation of the proposal

Announced under Flagship 10 of the European Commission's 2020 [sustainable and smart mobility strategy](#), the revision of EMSA's mandate was initially planned for the fourth quarter of 2022.

The Commission's [impact assessment](#) (IA) ran from 30 June 2021 until 28 July 2021. Four stakeholders – three public authorities and one company – submitted their feedback. The majority supported the enhancement of EMSA's mandate. The three public authorities also warned against the risk of mandate overlaps between EMSA and other agencies and international frameworks with responsibilities in maritime safety and security. Two public authorities rejected the IA's proposal to include sustainability as a more general term in EMSA's revised mandate.

The European Commission concluded that EMSA's current mandate does not provide for the agency's increasingly important role in supporting sustainability and the digital transition of the maritime sector, as a result of which there is a gap between EMSA's mandate and the actual tasks it performs. Additionally, it deems the mandate outdated in light of the evolving security challenges at sea and EMSA's evolving role in piracy alert systems, cybersecurity, responses to hybrid threats and information and capacity sharing. Finally, EMSA's mandate lacks alignment with the EU's maritime policy priorities in sustainability, neighbourhood policy, regional policies, trade and geopolitical relevance.

The Commission has not carried out any further impact assessments (IA), as there will be no change in EMSA's fundamental role.

Between 28 March and 20 June 2022, the Commission opened a [consultation](#), which yielded only 14 responses, mainly from NGOs followed by public authorities and business associations. The results were not made public.

Furthermore, the Commission conducted a consultation for a study on the revision of EMSA's mandate from December 2021 to January 2023. The [report](#) (Annex IV, SWD(2023)147 final) received feedback from 15 respondents, mainly non-governmental organisations, followed by public

authorities, business associations, one company and one EU citizen. Most respondents agreed that EMSA's mandate does not properly reflect its growing role in supporting the maritime sector in becoming more sustainable and embracing the digital transition. A majority found that EMSA's mandate is lagging behind in reflecting crucial developments under EU and international maritime legislation that are linked to the capacity of the EU Member States' administrations in their roles as flag-, coastal- or port states.

A consultation was open for [feedback](#) until 28 August 2023. It received feedback from four respondents, three public authorities and one business association. Respondents demanded the reduction of EMSA's administrative burdens, the development of user-friendly digital portals and the improvement of (online) training and capacity building opportunities. EMSA should also be mandated to manage a single coordinated repatriation plan in the event of a public health crisis.

## The changes the proposal would bring

The Commission [proposal](#) for a new regulation on EMSA and repealing Regulation (EC) No 1406/2002, would update EMSA's mandate to better reflect the agency's growing role in different areas of maritime transport. The proposed revision of EMSA's founding regulation contains the following key changes:

- revision of EMSA's objectives to reflect new tasks linked, among others, to reducing greenhouse gas (GHG) emissions from ships, making the maritime sector more sustainable, and activities relating to digitalisation and maritime surveillance. The revision seeks to replace the distinction between core tasks and ancillary tasks, by applying a thematic approach starting from horizontal support to tasks in the following areas: maritime safety, sustainability, decarbonisation, security and cybersecurity, maritime surveillance and crises, digitalisation and simplification, visits and inspections;
- introducing a flexibility mechanism for handling assistance requests. For this the management board of EMSA may first conduct a reflection and an analysis on human and financial resources;
- introducing changes to the administrative and financial rules of the agency's organisation, in line with the implementation of the 2012 [Joint Statement](#) and Common Approach on decentralised agencies;
- including the possibility for the agency to charge fees for specific tasks;
- the European Commission and EU Member States would increasingly rely on EMSA support when implementing the [FuelEU Maritime](#) Regulation and with regard to the extension of the EU's [ETS](#) to maritime transport;
- EMSA would play a significant role in simplifying reporting between Member States with IT tools (vessel traffic monitoring ([SafeSeaNet](#)), the Hybrid European Targeting and Inspection System ([THETIS](#)) and the European Marine Casualty Information Platform ([EMCIP](#)), while continuing to offer training and capacity building for Member States administrations.

The Commission estimates that accomplishing all this would require additional financial resources, estimated at €50 997 million, and the opening of 33 additional posts, in the framework of the current multiannual financial framework (MFF) 2021-2027, which already provides for a 2 % yearly increase of the EU contribution to EMSA (page 7 of the proposal).

The revision also envisages that EMSA would continue assisting the Commission and the Member States with [maritime surveillance](#), cybersecurity resilience and crisis preparedness, including in the framework of the war on Ukraine.

EMSA would receive additional tasks under the four directives within the maritime safety package, which are also being revised (See overview in Table 1 below).

Table 1 – Overview of legislation proposed in the framework of the new maritime safety package

Proposed legislation	Main (expected or proposed) additional tasks for EMSA
<a href="#">Revision of Directive 2009/21/EC on flag state control</a> COM(2023) 272 final	Provide information systems and services (the Union Maritime Information and Exchange System) for risk assessment. Provide support for training, sharing of experience and capacity building for flag state work/inspectors Provide support for the modernisation of the currently mostly paper-based ship registers (ship records and certificates)
<a href="#">Revision of Directive 2009/16/EC on port state control</a> COM(2023) 271 final	Develop training programmes for PSCOs adopting a more proactive (rather than as now a more re-active) safety, and pollution prevention approach Support the inclusion of fishing vessels within the scope of port state control
<a href="#">Revision of Directive 2009/18/EC on maritime accident investigation</a> COM(2023) 270 final	Provide Member States' accident investigation bodies with clarity and precision regarding definitions Provide assistance and support to Member States with small fleets and/or limited coastlines Provide further operational assistance to Member States, including capacity building
<a href="#">Revision of Directive 2005/35/EC on ship-source pollution</a> COM(2023) 273 final	Include more annexes from MARPOL in the scope of the revised directive Build upon THETIS EU, SSN and CSN Develop a specific digital tool to collect data on illegal discharges from ships and the related prosecution (to monitor the implementation of the Ship-source Pollution Directive) Provide more technical and operational assistance to Member States in aerial surveillance and reaction to pollution/illegal discharge, including pollution from hazardous and noxious substances (HNS) Provide an online tool for the possibility to report illegal discharges

Source: [SWD \(2023\) 147 final](#) (pp.22-23).

## Advisory committees

The European Economic and Social Committee ([EESC](#)) adopted its [opinion](#) on 20 September 2023.

The European Committee of the Regions (CoR) did not submit an opinion.

## National parliaments

The deadline for reasoned [opinions](#) by Member States in the framework of the subsidiarity control mechanism was set at 29 September 2023. No reasoned opinions were submitted. Ten Member States submitted an opinion, but had no subsidiarity concerns: Denmark, Finland, Germany, Ireland, Latvia, Lithuania, Malta, Poland, Slovakia and Sweden.



## Stakeholder views<sup>1</sup>

During the first feedback period from 30 June to 28 July 2021, before the publication of the Commission proposal, four stakeholders reacted: three public authorities and one company. The Merchant Shipping Directorate, Transport Malta stated that EMSA should focus on its core tasks and provide user-friendly technical solutions. Furthermore, EMSA should continue to technically assist Member States' administrations in ensuring a high level of maritime safety and security. The Spanish Maritime Administration [stated](#) that EMSA's current mandate does not properly reflect its growing role in helping the maritime sector to become more sustainable and to embrace the digital transformation. Therefore, EMSA's mandate needs to be consolidated in terms of the support that the agency should provide to Member States' administrations in their roles as flag, coastal or port states while the set of EU and international maritime obligations is evolving, and according to new security challenges. The Costa Group, a leading European cruise operator, [called](#) for EMSA to be mandated to manage a single coordinated repatriation plan in the event of future public health emergencies.

The deadline for submitting feedback on the proposal was 28 August 2023. Two responses were submitted. The European International Shipowners' Association of Portugal ([EISAP](#)) suggested that EMSA should always be able to adapt to the latest developments in the sector, and to give proactive input and competent contributions to the maritime industry. This could be achieved by enhancing EMSA's cooperation with the sectoral stakeholders and data providers, and by continuously monitoring and evaluating the sector's technological development. The Belgian company [FEPORT](#) expressed concern about the risks of cargo diversion from EU ports once ETS and FuelEU Maritime enter into force. FEPORT noted that the revised EMSA Regulation offers an opportunity to add the monitoring of cargo diversion through automatic identification systems (AIS) and customs data to EMSA's future tasks related to decarbonisation.

## Legislative process

The European Commission presented the proposal for a new EMSA Regulation on 1 June 2023.

The Parliament's Committee on Transport and Tourism (TRAN) is leading the work on this legislative file; Cláudia Monteiro de Aguiar (EPP, Portugal) was appointed as rapporteur. The TRAN committee published the [draft report](#) on 19 September 2023 and adopted its [report](#) on 7 December 2023. The same day, the committee also voted to enter into trilogue negotiations on the basis of the report. The report acknowledges the need to revise and update the existing regulation, particularly its competences and organisational rules, but asks for some modifications to the proposal.

- The report states that, through enhanced cooperation with port authorities, EMSA should play a more pro-active role regarding the modernisation of maritime ports, and help to establish and maintain high safety standards, in order to support decarbonisation and sustainability and to facilitate smoother vessel operations.
- According to the report, EMSA should also provide training to Member State officials on how to conduct maritime accident investigations, and help to eliminate current disparities on accident reporting and monitoring. EMSA should also help the inspector to assess whether seafarers' rights and working and living conditions on board ships are respected.
- EMSA should provide help to Member States on how to apply cutting-edge technologies, such as advanced monitoring systems, satellite technology and data analytics, to track vessel movements and identify potential risks and potential emergencies.
- The Committee believes that, at international level, EMSA should have a permanent voice in the IMO, in order to strengthen European influence and cooperation in the global maritime arena. EMSA should also provide EU countries with maritime situational awareness on new geopolitical challenges.

- Relations between EMSA and the European Parliament should be strengthened, as stated in the joint statement on decentralised agencies. The European Parliament should be involved in the appointment of the executive director, and a European Parliament representative should be appointed to the management board and be consulted on the multiannual programme.
- The cost of EMSA's services should correspond to the size, type, and impact of the maritime activities involved. The assigning of new competences should always be accompanied by adequate resources.

The Fisheries (PECH) Committee submitted its [opinion](#) on 29 November, and the Budget ([BUDG](#)) Committee its on 8 November 2023.

In the Council, the Working Party on Shipping held its first [discussion](#) on the proposal on 14 June 2023. The file was last discussed in the Council on 28 September 2023.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Jansen T. with Reicheneder L., [Revision of Regulation \(EC\) 1406/2002 establishing the European Maritime Safety Agency](#), Implementation Appraisal, EPRS, European Parliament, July 2023.

## OTHER SOURCES

[Revision of Regulation \(EC\) 1406/2002](#) establishing the European Maritime Safety Agency, Legislative Observatory (OEIL), European Parliament.

## ENDNOTES

- <sup>1</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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