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REPORT

on the proposal for a directive of the European Parliament and of the Council
on the recognition of seafarers' certificates issued by the Member States and
amending Directive 2001/25/EC
(COM(2004)0311 – C6-0033/2004 – 2004/0098(COD))

Committee on Transport and Tourism

Rapporteur: Robert J.E. Evans

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC
(COM(2004)0311 – C6-0033/2004 – 2004/0098(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2004)0311)¹,
 - having regard to Articles 251(2) and 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0033/2004),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0057/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Recital 9

(9) Member States should therefore take and enforce specific measures to prevent and penalise fraudulent practices associated with certificates of competency issued in their territory.

(9) Member States should therefore ***pursue their efforts within the IMO to achieve strict and enforceable agreements on the world-wide combating of fraudulent practices associated with certificates of competency and*** take and enforce specific measures to prevent and penalise fraudulent practices associated with certificates of competency issued in their territory.

¹ Not yet published in OJ.

Justification

Fraud involving certificates is mainly a problem outside the European Union. However, vessels flying the flag of, and with crews from, third countries also enter European ports and so constitute a risk to safety at sea in the Union. It is not therefore sufficient to combat fraud within the EU. The Member States should continue to make their presence felt within the IMO to this end.

Amendment 2 Article 2, point (a)

(a) ***“seafaring professions”*** means ***the regulated professional activities carried out by seafarers*** trained at least in accordance with the requirements ***of the STCW Convention, as*** laid down in Annex I to Directive 2001/25/EC;

(a) ***“seafarer”*** means ***a person*** trained at least in accordance with the requirements laid down in Annex I to Directive 2001/25/EC;

Justification

The term ‘seafaring professions’ is not used throughout the whole of the proposal. The definition in question should consequently be clarified.

Amendment 3 Article 2, point (b)

(b) ***“certificate”*** means a valid document ***within the meaning of Article 4 of Directive 2001/25/EC; covered under*** this definition are certificates of competency for masters and officers, endorsements, special certificates, medical certificates and documentary evidence of training, including sea service time, that are issued to any seafarer in accordance with Directive 2001/25/EC;

(b) ***“certificate”*** means a valid document ***by whatever name it may be known, issued by or under the authority of the competent authority of a Member State, authorising the holder to serve as stated in that document or as authorised by national regulations; included within*** this definition are certificates of competency for masters and officers, endorsements, special certificates, medical certificates and documentary evidence of training, including sea service time, that are issued to any seafarer in accordance with Directive 2001/25/EC;

Justification

The difference between "certificate" and "appropriate certificate" is not self-evident. To avoid misinterpretations, the full definition as formulated in Directive 2001/25/EC, should be given instead of just a reference to this directive.

Amendment 4
Article 2, point (c)

(c) “appropriate certificate” means a certificate of competency for masters, officers and radio officers *as defined in Article 1 point 27) of Directive 2001/25/EC*;

(c) “appropriate certificate” means a certificate of competency for masters, officers and radio officers ***issued and endorsed in accordance with Directive 2001/25/EC and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage, power and means of propulsion concerned while engaged on the particular voyage concerned***;

Justification

The difference between "certificate" and "appropriate certificate" is not self-evident. To avoid misinterpretations, the full definition as formulated in Directive 2001/25/EC, should be given instead of just a reference to this directive.

Amendment 5
Article 3, paragraph 1

1. Every Member State shall recognise the appropriate certificates or any other certificate of seafarers awarded to nationals or non-nationals of Member States by another Member State in accordance with the requirements laid down in Directive 2001/25/EC.

1. Every Member State shall, ***within one month of receiving an application for a recognition***, recognise the appropriate certificates or any other certificate of seafarers awarded to nationals or non-nationals of Member States by another Member State in accordance with the requirements laid down in Directive 2001/25/EC.

Amendment 6
Article 3, paragraph 1a (new)

1a. Member States shall guarantee a right of appeal against recognition decisions taken pursuant to paragraph 1, or the absence thereof within the period laid down therein, before a court or a tribunal in accordance with national legislation and procedures.

Amendment 7
Article 3, paragraph 3a (new)

3a. The host Member State shall ensure that seafarers who present for recognition certificates for functions at the management level have an appropriate knowledge of the maritime legislation of that Member State relevant to the functions they are permitted to perform.

Justification

The amendment clarifies the requirements for recognition of certificates.

Amendment 8
Article 5, paragraph 3

3) In the event of justified doubts, the host Member State may require of the competent authorities of another Member State ***to*** furnish written confirmation of the authenticity of seafarers' certificates, corresponding endorsements or any other documentary evidence of training issued in that other Member State.

3) At the request of a host Member State, the competent authorities of another Member State ***must*** furnish written confirmation ***or denial*** of the authenticity of seafarers' certificates, corresponding endorsements or any other documentary evidence of training issued in that other Member State.

Justification

The existing wording is too loose. The directive must require Member States to supply the requested information.

Amendment 9
Article 8 a (new)

Article 8a

Compliance report

No later than [5 years from the date of entry into force of this Directive] the Commission must submit to the European Parliament and the Council an evaluation report drawn up on the basis of the information obtained pursuant to Article

6. In this report the Commission will analyse the Member States' compliance with this Directive and, where necessary, make proposals for additional measures.

Justification

By submitting an evaluation report after 5 years, the Commission will enable the European Parliament and the Council to judge whether the Member States have met their obligations and whether there is a need for additional measures.

EXPLANATORY STATEMENT

Summary of the proposal

Recognition of seafarers' certificates

Training and certification requirements for seafarers are prescribed by the IMO Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention), which also contains agreements about the recognition of certificates. These international requirements were transposed into Community legislation by way of Directive 2001/25/EC. However, this directive refers, for the recognition of certificates, to two other European directives which provide for a separate recognition procedure.

This reference is superfluous and undesirable, principally because minimum requirements for professionals in the maritime transport sector have been laid down at European level for some time. In other words, all Member States already have to comply with the same rules for certification, and do not therefore need a complicated procedure to check this with each other.

In addition, the recognition of certificates issued by third countries has now also been simplified. This leads to the paradoxical situation that the recognition of certificates from *outside* the EU is now simpler than that of certificates from *within* the EU. This is discriminatory and unnecessarily hinders the free movement of seafarers. The decline in the number of EU seafarers makes it all the more necessary that there should be free movement of workers in this sector.

Accordingly, this Commission proposal seeks first of all to simplify the recognition procedure. It also regulates a number of specific issues:

Language proficiency

Directive 2001/25/EC only partially transposed the STCW rules on communication into EU law. In the interest of safety at sea, improving social conditions on board, and the mobility of workers, the Commission now proposes that the relevant provisions of the STCW Convention – namely a satisfactory command of English – be transposed into EU law.

Prevention of fraud

A recent IMO study has shown that fraud involving seafarers' certificates is a regular occurrence. The directive requires the Member States to take appropriate measures to prevent this. The Commission, supported by the Maritime Safety Agency, periodically checks whether the Member States are complying with these requirements.

Rapporteur's view

Your rapporteur welcomes this Commission proposal as a necessary corrective to the existing European directive 2001/25/EC. The proposal would restrict administrative burdens, combat discrimination and promote the mobility of workers in the maritime sector.

European rules should as far as possible be in line with international agreements, in this case the STCW Convention. This is in the interest of transparency, legal certainty and reducing the burden of regulation. In your rapporteur's view, the Commission proposal meets this

requirement.

However, your rapporteur wishes to make a small number of amendments to tighten up parts of the directive.

Prevention of fraud

While considering an earlier amendment to Directive 2001/25/EC in 2003, the European Parliament expressed its concern about fraud involving seafarers' certificates. Your rapporteur notes with approval that the Commission now proposes concrete measures to prevent such fraud.

Your rapporteur wishes to stress, however, by an amendment to Recital 9, that Member States should also keep up their efforts in the context of the IMO towards the world-wide combating of fraud, since vessels and crews from third countries not covered by this directive - which also enter European waters and ports - may constitute a safety risk.

Confirmation of authenticity

The Commission proposes that in the event of 'justified doubts', the host country may ask the competent authorities of another Member State to provide confirmation of the authenticity of seafarers' certificates. However, the proposal does not impose a requirement on the other Member States to provide such confirmation. Your rapporteur wishes to tighten this provision by requiring Member States to supply a written confirmation to the host country if it requests one.

Evaluation report

Following a number of shipwrecks off the European coast, the European Parliament has repeatedly asserted that safety at sea needs to be improved first and foremost not by imposing yet more new rules, but by improving the implementation and enforcement of those which already exist. The Commission should ensure that the Member States comply with their obligations. By submitting an evaluation report after 5 years, the Commission will enable the European Parliament and the Council to judge whether the Member States have met their obligations and whether there is a need for additional measures.

PROCEDURE

Title	Proposal for a directive of the European Parliament and of the Council on the recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC
References	COM(2004)0311 – C6-0033/2004 – 2004/0098(COD)
Legal basis	Articles 251(2) and 80(2) EC
Basis in Rules of Procedure	Rule 51
Date submitted to Parliament	26.4.2004
Committee responsible Date announced in plenary	TRAN 15.9.2004
Committee(s) asked for opinion(s) Date announced in plenary	EMPL 15.9.2004
Not delivering opinion(s) Date of decision	EMPL 20.9.2004
Enhanced cooperation Date announced in plenary	
Rapporteur(s) Date appointed	Robert Evans 1.9.2004
Previous rapporteur(s)	
Simplified procedure Date of decision	
Legal basis disputed Date of JURI opinion	
Financial endowment amended Date of BUDG opinion	
European Economic and Social Committee consulted Date of decision in plenary	
Committee of the Regions consulted Date of decision in plenary	
Discussed in committee	7.10.2004 22.11.2004
Date adopted	23.11.2004
Result of final vote	for: 46 against: 2 abstentions: 0
Members present for the final vote	Robert Atkins, Margrete Auken, Etelka Barsi Pataky, Philip Bradbourn, Sylwester Chruszcz, Paolo Costa, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Armando Dionisi, Saïd El Khadraoui, Emanuel Jardim Fernandes, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Jaromír Kohlíček, Rodi Kratsa-Tsagaropoulou, Jörg Leichtfried, Bogusław Liberadzki, Evelin Lichtenberger, Erik Meijer, Michael Henry Nattrass, Robert Navarro, Seán Ó Neachtain, Janusz Onyszkiewicz, Josu Ortuondo Larrea, Willi Piecyk, Luís Queiró, Reinhard Rack, Luca Romagnoli, Gilles Savary, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Gary Titley, Marta Vincenzi, Corien Wortmann-Kool, Roberts Zīle

Substitutes present for the final vote	Zsolt László Becsey, Johannes (Hans) Blokland, Luigi Cocilovo, Sepp Kusstatscher, Antonio López-Istúriz White, Helmuth Markov, Zita Pleštinská	
Substitutes under Rule 178(2) present for the final vote		
Date tabled – A6	2.12.2004	A6-0057/2004
Comments		