



2023/0172(COD)

29.11.2023

OPINION

of the Committee on Fisheries

for the Committee on Transport and Tourism

on the proposal for a directive of the European Parliament and of the Council
amending Directive 2009/21/EC on compliance with flag State requirements
(COM(2023)272 – C9-0188/2023 – 2023/0172(COD))

Rapporteur for opinion: Ana Miranda

PA_Legam

SHORT JUSTIFICATION

The current proposal forms part of a wider package of measures aimed at improving maritime safety. Whilst other elements of the package involve specific changes for the fisheries sector, it is equally apparent that the flag State Directive is of vital importance to fishing communities; flags of convenience, for example, cause major problems with regard to safety, working conditions, traceability of fisheries products and a level playing field.

The 2009 maritime safety package was in large part a response to a series of marine disasters, not least of which was the Prestige disaster off the coast of Galicia in 2002. This disaster was unprecedented in nature and had a devastating effect on sea life, birds and the wider environment. This, in turn, severely impacted all those involved in fisheries, particularly those engaged in inshore and artisanal fishing and the shellfish sector.

The disaster also highlighted major shortcomings in the Spanish government's response – highlighted in Parliament's resolution in the wake of the disaster¹ – as well as disparities in maritime safety across the EU. Parliament raised serious concerns at that time regarding flags of convenience and the 2009 flag State requirements Directive went some way to remedying this.

The Commission considers that the 2009 Directive has in general been well transposed by Member States and has created a more level playing field in the shipping sector. It has not however remained fully up-to-date with developments at IMO level and there are still inconsistencies in relation to inspections and monitoring.

The Commission proposal therefore aims to update the Directive to conform more fully with IMO standards, to harmonise inspections and monitoring, to promote digital solutions and to improve cooperation between Member State authorities. The proposal also aims to improve flag State training.

Your rapporteur fully supports the Commission's aim to update the current legislative regime and to ensure that it remains fully aligned with international standards. She also welcomes the moves to more fully embrace digital technologies.

Equally, however, she highlights recent resolutions where the European Parliament has continued to express concerns as regards the issue of reflagging and flags of convenience.² This remains a major issue for the environment and, from a fisheries perspective, for those whose livelihoods are dependent on that environment. These views are reflected in wider civic society, for example in Galicia, where the *Nunca Más* platform continues to campaign in the wake of the Prestige disaster for all shipping in EU waters to comply with IMO standards.

Europe contains some of the world's busiest international shipping channels and the issue of ships using flags of convenience passing through sensitive marine areas such as the Fisteria corridor remains live.

¹ P5_TA(2004)0350

² For example, resolution P9_TA(2022)0356 and at the first reading of the FuelEU Maritime proposal.

Needs vary between waters as diverse as the Baltic, the Mediterranean and the Atlantic coast. All these areas however support communities dependent on a clean maritime environment – and all are dependent upon a properly functioning maritime safety regime. The current proposal should form a part of ongoing efforts to improve the EU’s work to protect our vital marine environment – as well as the economy, food security and communities dependent upon fisheries, aquaculture and shellfish.

On a final note, your rapporteur regrets the truncated procedure which has been faced by the Fisheries Committee. The Committee should have been given full oversight within a reasonable timescale for a package of such importance to the fishing industry.

AMENDMENTS

The Committee on Fisheries calls on the Committee on Transport and Tourism, as the committee responsible, to take the following into account:

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The safety of Union **shipping** and of citizens using it **and** the protection of the environment should be ensured at all times.

Amendment

(1) The safety of Union **maritime sector, seafarers** and of citizens using it, **along with the well-being of passengers and crew as well as** the protection of the environment should be ensured at all times. **At all times it should also be borne in mind that countless jobs and coastal communities are dependent upon that protection of the environment.**

Amendment 2

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The welfare of workers in the maritime industry, ensuring fair labour conditions and adequate protection for seafarers should be guaranteed.

Justification

This Directive rightly emphasizes the safety of Union shipping and environmental protection. However, it could benefit from a more explicit acknowledgment of the importance of fair labour conditions and the welfare of seafarers, which are critical aspects of maritime operations.

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Under the provisions of the United Nations Convention on the Law of the Sea 1982 (UNCLOS) and of the Conventions for which the IMO is the depository, the States which are party to those instruments are responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give those instruments full and complete effect so as to ensure that, from the point of view of safety of life at sea and protection of the marine environment, a ship is fit for the service for which it is intended.

Amendment

(2) Under the provisions of the United Nations Convention on the Law of the Sea 1982 (UNCLOS) and of the Conventions for which the IMO is the depository, the States which are party to those instruments are responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give those instruments full and complete effect so as to ensure that, from the point of view of safety of life at sea and protection of the marine environment ***and those whose livelihoods are dependent on that environment***, a ship is fit for the service for which it is intended.

Amendment 4

Proposal for a directive

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Unsafe situations at sea can lead to accidents and shipping disasters, which can have an unprecedented impact on (vulnerable) marine ecosystems. Seas and oceans play a crucial role in regulating the Earth's climate and are a huge carbon sink, and it is therefore essential to protect these ecosystems.

Amendment 5

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) At international level, the function of investigating maritime accidents is part of flag State responsibilities, while at the Union level it is made independent and regulated by Directive 2009/18/EC of the European Parliament and of the Council²⁹. This Directive should not affect Directive 2009/18/EC.

²⁹ Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council (OJ L 131, 28.5.2009, p. 114)

Amendment

(5) At international level, the function of investigating maritime accidents is part of flag State responsibilities; ***wherein it is of utmost importance to ensure that accident investigations prioritize accountability and learning to prevent future accidents***; while at the Union level it is made independent and regulated by Directive 2009/18/EC of the European Parliament and of the Council²⁹. This Directive should not affect Directive 2009/18/EC.

²⁹ Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council (OJ L 131, 28.5.2009, p. 114)

Justification

The Directive maintains the independence of maritime accident investigations, which is essential. Still, it should also underscore the significance of thorough reporting, transparency, and accountability in these investigations to ensure that lessons are learned and applied to prevent future accidents.

Amendment 6

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) The maritime administrations of the Member States should be able to rely on adequate resources, including technical

Amendment

(7) The maritime administrations of the Member States should be able to rely on adequate resources, including technical

decision-making capability, for the implementation of their flag State obligations, commensurate with the size and type of their fleet and based upon the relevant IMO requirements. In order to improve the overall qualitative performance of ships flying the flag of a Member State it is also necessary to harmonise the strict and thorough monitoring, including development of rules and design review, of the recognised organisations performing flag State duties on behalf of Member States.

decision-making capability, for the implementation of their flag State obligations, commensurate with the size and type of their fleet and based upon the relevant IMO requirements. ***There should be full regard for administrations below Member State level who have competences in the fisheries sector, in line with each Member State's legal order.*** In order to improve the overall qualitative performance of ships flying the flag of a Member State it is also necessary to harmonise the strict and thorough monitoring, including development of rules and design review, of the recognised organisations performing flag State duties on behalf of Member States.

Amendment 7

Proposal for a directive Recital 8

Text proposed by the Commission

(8) Minimum criteria and inspection targets related to those resources should be established on the basis of the practical experience of the Member States, including the use of non-exclusive inspectors, via implementing measures.

Amendment

(8) Minimum criteria and inspection targets related to those resources should be established on the basis of the practical ***and observational*** experience of the Member States, including the use of non-exclusive inspectors, via implementing measures.

Justification

Whereas theoretical experience may not be the most useful for inspections, observational experience can significantly benefit Member States in implementing a best-case scenario based on the modus operandi in other countries by providing practical insights, learning opportunities, and a foundation for informed decision-making.

Amendment 8

Proposal for a directive Recital 9

Text proposed by the Commission

Amendment

(9) The fulfilment of a harmonised capacity building scheme, post-qualification, by flag State surveyors and inspectors, should ensure a level playing field between maritime administrations and contribute to the qualitative performance of ships flying the flag of a Member State.

(9) The fulfilment of a harmonised capacity building scheme, post-qualification, by flag State surveyors and inspectors, should ensure a level playing field between maritime administrations and contribute to the qualitative performance of ships flying the flag of a Member State.
Continuous training and professional development for seafarers should be ensured as to stay up-to-date with evolving safety and environmental standards.

Justification

The capacity-building program for flag State surveyors and inspectors is a positive step. To enhance this, ongoing professional development and training opportunities could be emphasized to ensure that these professionals remain well-equipped to adapt to evolving safety and environmental standards.

Amendment 9

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) The establishment and development of a database providing essential information, in an electronic format on ships flying the flag of a Member State should contribute to enhanced exchange of information, further improve the ***transparency of the performance of a high quality*** fleet and allowing enhanced monitoring of flag State obligations to ensure a level playing field between maritime administrations.

Amendment

(11) The establishment and development of a database providing essential information, in an electronic format on ships flying the flag of a Member State should contribute to enhanced exchange of information, further improve the ***working conditions and wages of fleet to promote fair labour practices*** and allowing enhanced monitoring of flag State obligations to ensure a level playing field between maritime administrations.

Amendment 10

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Transparency in maritime operations should be ensured along with accountability of ship-owners for any violation of safety or environmental regulations.

Justification

Ensuring access to information for relevant authorities is crucial for monitoring purposes. In addition to this, provisions could be made to protect whistle-blowers who report safety or environmental violations, contributing to a culture of transparency and accountability.

Amendment 11

**Proposal for a directive
Recital 12 b (new)**

Text proposed by the Commission

Amendment

(12b) Relevant authorities should establish mechanisms for whistle-blowers to report safety and environmental violations without fear of retaliation.

Justification

The Directive should also provide clear mechanisms for workers to report safety and environmental concerns, fostering a proactive approach to safety.

Amendment 12

**Proposal for a directive
Recital 17**

Text proposed by the Commission

Amendment

(17) In order to discuss flag State matters, including technical, issues and facilitate exchange of expertise and information, a high level group on flag State matters consisting of Member States' national authorities, flag State experts and inspectors, as well as, ***as*** appropriate, experts from the private sector, should be established.

(17) In order to discuss flag State matters, including technical, issues and facilitate exchange of expertise and information, a high level group on flag State matters consisting of Member States' national authorities, flag State experts and inspectors, as well as, ***where*** appropriate, experts from the private sector ***and representatives of maritime workers,***

should be established.

Justification

Establishing a high-level group for flag State matters is a positive development. Still, it could be strengthened by including representation from workers and their representatives to ensure a holistic approach to maritime governance.

Amendment 13

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) An electronic reporting tool for the purposes of further improving the consistent collection of relevant statistics and maritime data and information from Member States, should be established.

Amendment

(18) An electronic reporting tool for the purposes of further improving the consistent collection of relevant statistics and maritime data and information from Member States, should be established ***taking into account already existing reporting obligations in other Union acts such as the Regulation (EC) No 1224/2009.***

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2009/21/EC

Article 4 – paragraph 1

Text proposed by the Commission

1. Prior to allowing a ship to operate, which has been granted the right to fly its flag, the Member State concerned shall ensure that the ship in question complies with the applicable international rules and regulations. In particular, it shall verify the safety records of the ship using the inspection reports and certificates contained in database referred to in article 6a. It shall, if necessary, consult with the losing flag State ***in order to establish whether*** any outstanding deficiencies or

Amendment

1. Prior to allowing a ship to operate, which has been granted the right to fly its flag, the Member State concerned shall ensure that the ship in question complies with the applicable international rules and regulations, ***notably with regard to seafarers' working conditions and environmental protection.*** In particular, it shall verify the safety records of the ship using the inspection reports and certificates contained in database referred to in article 6a. It shall, if necessary, consult with the

safety issues *identified by the latter remain unresolved.*

losing flag State *to address* any outstanding deficiencies or safety issues. *This collaboration shall aim to ensure that any outstanding deficiencies or safety concerns are fully resolved before the ship operates.*

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

(a) prohibiting ships from sailing until such ships can proceed to sea in compliance with international rules and standards;

Amendment

(a) prohibiting ships from sailing until such ships can proceed to sea in compliance with international rules and standards; *including the conduct of regular safety drills and exercises to ensure the readiness of the crew for emergency situations, and enforcing crew rest hour regulations to prevent fatigue-related accidents;*

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

(b) ensuring that ships entitled to fly their flag have been surveyed in accordance with the survey guidelines under the Harmonized System of Survey and Certification (HSSC); *and,*

Amendment

(b) ensuring that ships entitled to fly their flag have been surveyed in accordance with the survey guidelines under the Harmonized System of Survey and Certification (HSSC). *This includes conducting environmental audits to assess compliance with regulations related to emissions, ballast water management, and other environmental concerns, going beyond standard safety inspections;*

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

Amendment

(ba) Promoting a safety culture on board by encouraging the reporting of near-misses and unsafe conditions, as well as the continuous improvement of safety practices;

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

Amendment

(bb) Collaborating with other flag States and international bodies to conduct joint inspections, share information, and harmonize enforcement efforts to ensure the effective enforcement of international rules and standards;

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

Amendment

(c) carrying out supplementary flag State inspections of ships to verify that the actual condition of the ship is in conformity with the certificates it carries.

(c) carrying out supplementary flag State inspections of ships to verify that the actual condition **and working conditions** of the ship is in conformity with the certificates it carries. **These inspections should also encompass crew training and welfare, ensuring that crew members**

receive proper training in safety and environmental procedures, and that their rights and well-being are protected in accordance with the Maritime Labour Convention, 2006 (MLC 2006);

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

Amendment

(ca) Utilizing advanced monitoring technology, such as satellite tracking and remote sensors, to track a ship's activities and compliance with regulations in real-time;

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 3

Directive 2009/21/EC

Article 4a

Text proposed by the Commission

Amendment

(cb) Requiring ships to submit regular reports on safety and environmental compliance and making these reports accessible to relevant authorities for review, thereby enhancing reporting and transparency.

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(ga) Information related to the ship's environmental performance, such as emissions data (e.g. greenhouse gas emissions, sulphur oxide emissions) and data on the management of ballast water and other potentially polluting substances;

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gb) Details about the ship's crew, including their qualifications, certifications, and rest hours, to ensure compliance with labour and safety regulations;

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gc) Reporting of any accidents, incidents, or near-misses, along with the actions taken to address them, contributing to a proactive safety culture;

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gd) Information on the type, quantity, and handling of cargo, especially for ships carrying hazardous materials or dangerous goods, to assess compliance with transport and safety regulations;

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(ge) Data related to the ship's Safety Management System, including records of safety meetings, hazard assessments, and corrective actions taken;

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gf) Data on security measures and compliance with international maritime security codes and conventions, particularly relevant in today's security-conscious environment;

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gg) Information on technological upgrades, equipment maintenance, and

safety-related modifications made to the ship;

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gh) Records related to the welfare and living conditions of seafarers, including records of crew complaints or concerns;

Amendment 30

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gi) The ability for Member States to verify the authenticity and validity of certificates and documentation presented by the ship, helping to combat fraud and ensure compliance;

Amendment 31

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2009/21/EC

Article 6

Text proposed by the Commission

Amendment

(gj) Reporting on sustainability practices, such as fuel consumption, energy efficiency measures, and environmental impact reduction efforts, aligning with global sustainability goals.

Amendment 32

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9a

Text proposed by the Commission

Amendment

(ja) Develop recommendations and guidelines for flag State inspections and procedures that prioritize the protection of workers' rights and safety on ships, including the involvement of workers' representatives in safety inspections;

Amendment 33

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9a

Text proposed by the Commission

Amendment

(jb) Provide recommendations for flag State inspections and procedures that emphasize environmental compliance, ensuring that ships are adhering to international environmental regulations and guidelines;

Amendment 34

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9a

Text proposed by the Commission

Amendment

(jc) Assist in the development of measures to promote social responsibility and compliance with labour standards on ships, including monitoring and reporting on crew welfare, working conditions, and adherence to the Maritime Labour

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9a

Text proposed by the Commission

Amendment

(jd) Encourage flag States to engage with local communities in ports of call to address any social or environmental concerns related to ship operations, promoting positive relationships and responsible maritime practices;

Amendment 36

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9a

Text proposed by the Commission

Amendment

(je) Advise on the integration of new technologies, such as digital reporting tools and IoT devices, to enhance the effectiveness of flag State inspections and oversight, while also considering data privacy and cybersecurity aspects;

Amendment 37

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9a

Text proposed by the Commission

Amendment

(jf) Establish mechanisms for conflict resolution and dispute resolution related to flag State inspections and procedures,

ensuring fair and transparent processes.

Amendment 38

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9b

Text proposed by the Commission

Amendment

(iva) Investments in green and environmentally sustainable technologies, such as the use of cleaner fuels or emission reduction equipment, to demonstrate efforts towards reducing the environmental footprint of the flagged fleet;

Amendment 39

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9b

Text proposed by the Commission

Amendment

(ivb) Initiatives and measures taken to promote a safety culture on board ships, including training programs, safety drills, and campaigns to raise awareness among crew members about safety practices;

Amendment 40

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9b

Text proposed by the Commission

Amendment

(ivc) Any incidents, accidents, or violations related to safety and pollution prevention requirements, along with

actions taken to address them, promoting transparency and accountability;

Amendment 41

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2009/21/EC

Article 9b

Text proposed by the Commission

Amendment

(ivd) Collaboration with other Member States and international bodies to enhance safety and pollution prevention, including joint inspections, information sharing, and participation in international initiatives to improve maritime safety and environmental protection;

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT**

The rapporteur declares under her exclusive responsibility that she did not receive input from any entity or person to be mentioned in this Annex pursuant to Article 8 of Annex I to the Rules of Procedure.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Amending Directive 2009/21/EC on compliance with flag State requirements
References	COM(2023)0272 – C9-0188/2023 – 2023/0172(COD)
Committee responsible Date announced in plenary	TRAN 10.7.2023
Opinion by Date announced in plenary	PECH 10.7.2023
Rapporteur for the opinion Date appointed	Ana Miranda 5.9.2023
Discussed in committee	9.10.2023
Date adopted	29.11.2023
Result of final vote	+ : 20 - : 3 0 : 1
Members present for the final vote	Clara Aguilera, João Albuquerque, Pietro Bartolo, Izaskun Bilbao Barandica, Isabel Carvalhais, Maria da Graça Carvalho, Asger Christensen, Rosa D'Amato, Francisco Guerreiro, Anja Haga, Niclas Herbst, Ladislav Ilčić, France Jamet, Predrag Fred Matić, Francisco José Millán Mon, Ana Miranda, João Pimenta Lopes, Caroline Roose, Bert-Jan Ruissen, Marc Tarabella, Theodoros Zagorakis
Substitutes present for the final vote	Gabriel Mato
Substitutes under Rule 209(7) present for the final vote	Erik Poulsen, Anne Sander

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

20	+
PPE	Maria da Graça Carvalho, Anja Haga, Niclas Herbst, Gabriel Mato, Francisco José Millán Mon, Anne Sander, Theodoros Zagorakis
Renew	Izaskun Bilbao Barandica, Asger Christensen, Erik Poulsen
S&D	Clara Aguilera, João Albuquerque, Pietro Bartolo, Isabel Carvalhais, Predrag Fred Matić
The Left	João Pimenta Lopes
Verts/ALE	Rosa D'Amato, Francisco Guerreiro, Ana Miranda, Caroline Roose

3	-
ECR	Ladislav Ilčić, Bert-Jan Ruissen
ID	France Jamet

1	0
NI	Marc Tarabella

Key to symbols:

+ : in favour

- : against

0 : abstention