



**2023/0164(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 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector (COM(2023)270 – C9-0189/2023 – 2023/0164(COD))

Rapporteur for opinion: Niclas Herbst

PA\_Legam

## SHORT JUSTIFICATION

Fishing plays a crucial role in employment and economic activity in several EU regions – in some European coastal communities the fishing sector accounts for as many as half the local jobs. In 2022, direct employment generated by the sector, amounted to 124 636 fishers<sup>1</sup> and the sector also generated a large number of jobs in the processing industry and services. Fisheries, however, remains one of the sectors with the highest risk of accidents. In 1997, the International Labour Organization<sup>2</sup> estimated that 24,000 fatalities occur worldwide per year in fisheries. At EU level, the risk of being killed or injured while fishing is also high. At present, the EU has two Directives in force which concern safety in the fisheries sector (Directives 93/103/EC<sup>3</sup> and 97/70/EC<sup>4</sup>). However, these directives only concern larger vessels, i.e. approximately 10% of EU vessels.

### Substance of the Proposal

The proposal amends Directive 2009/18/EC whose purpose is to improve maritime safety and the prevention of pollution by ships, and so reduce the risk of future marine casualties, by facilitating the expeditious holding of safety investigations and proper analysis of marine casualties and incidents in order to determine their causes, and ensuring the timely and accurate reporting of safety investigations and proposals for remedial action. Fishing vessels less than 15 metres in length are at present excluded from the scope of Directive 2009/18/EC, and therefore the conduct of maritime accident investigations involving such fishing vessels is non-systematic and non-harmonised. Such vessels are more prone to capsizing and members of the crew falling overboard is relatively common. Therefore, there is a need to protect those fishing vessels, fishers and the environment by introducing a preliminary assessment of very serious marine casualties involving fishing vessels less than 15 metres long to determine whether the authorities should open a safety investigation. The proposal therefore, in point 2, extends the scope of the Directive to all fishing vessels including those of less than 15 meters in length.

The definition of the length of a fishing vessel should also be set out especially when there is a distinction on the approach and the obligations of the marine safety investigation authorities based on the length of the fishing vessel. Therefore, in point 3, the length of a fishing vessel is specified as the length overall in accordance with Article 2 of Regulation (EU) 2017/1130<sup>5</sup>.

Point 5 makes changes to the obligation to investigate and provides that, in relation to a very serious marine casualty (loss of the vessel and/or a fatality) involving a fishing vessel of less than 15 metres in length, Member States are obliged to at least carry out a preliminary assessment to determine if a safety investigation should be carried out.

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<sup>1</sup> The 2022 annual economic report on the EU fishing fleet (STECF 22-06)

<sup>2</sup> ILO, Safety and Health in the Fishing Industry, Geneva, 1999, p.19

<sup>3</sup> Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels; OJ L 307, 13.12.1993, p. 1–17

<sup>4</sup> Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over; OJ L 34, 9.2.1998, p. 1–29

<sup>5</sup> Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels; OJ L 169, 30.6.2017, p. 1–7

Point 14 relates to the reporting obligations of Member States as regards the European Maritime Casualty Information Platform (EMCIP). The proposal specifies Member States' obligations regarding very serious marine casualties involving fishing vessels of less than 15 metres in length.

### Position of the Rapporteur

It is not sufficient to limit safety investigations to serious accidents ('very serious casualties') involving the loss of the vessel or human lives. These investigations should also be carried out when there are cases of personal injuries of fishers with the risk of disability or impairment. Given the importance of these investigations, should the investigation authority decide not to undertake a safety investigation in cases of a very serious marine casualty or any other marine casualty or incident, then it should justify its decision.

Furthermore, since the aim of the safety investigations is the prevention of future marine casualties and incidents, it is crucial to quickly and efficiently gather and analyse the data relating to maritime safety. The investigation authority should therefore also be tasked with the gathering and systematic analysis of data relating to maritime safety, in particular for prevention purposes.

## 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 7

#### *Text proposed by the Commission*

(7) Fishing vessels less than 15 metres in length are at present excluded from the scope of Directive 2009/18/EC, therefore the conduct of maritime accident investigations involving such fishing vessels is non-systematic and non-harmonised. Such vessels are more prone to ***capsizing and members of the crew*** falling overboard is relatively common. Therefore, there is a need to protect those fishing vessels, ***their crew*** and the environment by introducing ***a preliminary assessment*** of very serious marine casualties involving fishing vessels less than 15 metres ***long*** to determine whether

#### *Amendment*

(7) Fishing vessels less than 15 metres in length are at present excluded from the scope of Directive 2009/18/EC, therefore the conduct of maritime accident investigations involving such fishing vessels is non-systematic and non-harmonised. Such vessels are more prone to ***accidents, and fishers*** falling overboard is relatively common. Therefore, there is a need to protect those ***fishers***, fishing vessels and the environment ***as well as gather data to be able to better prevent future accidents*** by introducing ***the obligation for the investigation authority to carry out a preliminary assessment*** of

the authorities should open a safety investigation.

very serious marine casualties involving fishing vessels less than 15 metres ***in length*** to determine whether the authorities should open a safety investigation ***as well as collecting data on the type of fisheries involved in accidents leading to very serious marine casualties.***

## Amendment 2

### Proposal for a directive

#### Recital 8

*Text proposed by the Commission*

(8) Some definitions provided in Directive 2009/18/EC are not clear. The definition of the length of a fishing vessel should be set out especially when there is a distinction on the approach and the obligations of the marine safety investigation authorities based on the length of the fishing vessel.

*Amendment*

(8) Some definitions provided in Directive 2009/18/EC are not clear. ***In particular***, the definition of the length of a fishing vessel should be set out ***and aligned with existing legislation***, especially when there is a distinction on the approach and the obligations of the marine safety investigation authorities based on the length of the fishing vessel.

## Amendment 3

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 – point a

Directive 2009/18/EC

Article 2 – paragraph 2 – point b

*Text proposed by the Commission*

(b) ships not propelled by mechanical means, wooden ships of primitive build, ***pleasure yachts and pleasure craft unless they are used for commercial purposes.***

*Amendment*

(b) ships not propelled by mechanical means ***and*** wooden ships of primitive build.

## Amendment 4

### Proposal for a directive

#### Article 1 – paragraph 1 – point 3

Directive 2009/18/EC

Article 3 – paragraph 1 – point 9 a (new)

*Text proposed by the Commission*

*Amendment*

**9 a. “fishing vessel” shall be understood in accordance with the definition contained in Article 4 of Regulation 1224/2009**

## **Amendment 5**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. Each Member State shall ensure that a safety investigation is carried out by the investigation authority referred to in Article 8 after very serious marine casualties:

1. Each Member State shall ensure that a safety investigation is carried out by the investigation authority referred to in Article 8 after very serious marine casualties **or a serious injury**:

## **Amendment 6**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) involving a ship flying its flag, irrespective of the location of the casualty;

(a) involving a ship flying its flag, irrespective of the **size and type of vessel and the** location of the casualty;

## **Amendment 7**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 1 – point b

*Text proposed by the Commission*

(b) occurring within its territorial sea and internal waters as defined in UNCLOS, irrespective of the flag of the ship or ships involved in the casualty; or

*Amendment*

(b) occurring within its territorial sea and internal waters as defined in UNCLOS, irrespective of the flag, **size and type** of the ship or ships involved in the casualty; or

**Amendment 8**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 1 – point c

*Text proposed by the Commission*

(c) involving a substantial interest of the Member State, irrespective of the location of the casualty and of the flag of the ship or ships involved.

*Amendment*

(c) involving a substantial interest of the Member State, irrespective of the location of the casualty and of the flag, **size and type** of the ship or ships involved.

**Amendment 9**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

In the case of a fishing vessel of less than 15 metres in length, the investigation authority shall carry out a preliminary assessment of the very serious marine casualty to determine whether or not to conduct a safety investigation.

*Amendment*

In the case of a fishing vessel of less than 15 metres in length, the investigation authority shall carry out a preliminary assessment of the very serious marine casualty **or serious injury** to determine whether or not to conduct a safety investigation.

**Amendment 10**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

Where the investigation authority decides not to undertake a safety investigation of a **very serious** marine casualty involving a fishing vessel of less than 15 metres the reasons for that decision shall be recorded and notified in accordance with Article 17(3).

*Amendment*

Where the investigation authority decides not to undertake a safety investigation of a marine casualty involving a fishing vessel of less than 15 metres, the reasons for that decision shall be recorded and notified in accordance with Article 17(3), **and the Commission shall be able to request additional information to the investigation authorities regarding the decision not to undertake the safety investigation. The Commission may request that the investigation authority shall undertake the corresponding safety investigation.**

**Amendment 11**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 8**

Directive 2009/18/EC

Article 8 – paragraph 4 – introductory part

*Text proposed by the Commission*

4. Member States, acting in the framework of their respective legal systems, shall ensure that the investigators of its investigation authority, or of any other investigation authority to which it has delegated the task of marine safety investigation, where appropriate in collaboration with the authorities responsible for the judicial inquiry, be provided with any information pertinent to the conduct of the marine safety investigation and therefore be authorised to:

*Amendment*

4. Member States, acting in the framework of their respective legal systems, shall ensure that the investigators of its investigation authority, or of any other investigation authority to which it has delegated the task of marine safety investigation, where appropriate in **close** collaboration with the authorities responsible for the judicial inquiry, be provided with any information pertinent to the conduct of the marine safety investigation and therefore be authorised to:

**Amendment 12**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 8**

Directive 2009/18/EC

Article 8 – paragraph 6 a (new)



*Text proposed by the Commission*

*Amendment*

**6 a. Member States shall take the necessary measures to assist accident victims and close relatives and shall ensure that they are provided with relevant information and support in the investigation process.**

## **Amendment 13**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 11**

Directive 2009/18/EC

Article 14– paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Safety investigations carried out under this Directive shall result in a published report presented in a format defined by the competent investigation authority and in accordance with the relevant sections of Annex I.

1. Safety investigations carried out under this Directive shall result in a published report presented in a format defined by the competent investigation authority and in accordance with the relevant sections of Annex I. ***When the report concerns a fishing vessel, it shall also contain information on the type of fisheries it conducted at the time of the accident.***

## **Amendment 14**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 11**

Directive 2009/18/EC

Article 14 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Investigation authorities shall make every effort to make the report referred to in paragraph 1, including its conclusions and any possible recommendations, available to the public, and especially to the maritime sector, within 12 months of the date of the casualty. If it is not possible

2. Investigation authorities shall make every effort to make the report referred to in paragraph 1, including its conclusions and any possible recommendations, available, ***where possible, to the victims of accidents and their close relatives,*** to the public, and especially to the maritime ***and***

to produce the final report within that time, an interim report shall be published within 12 months of the date of the casualty.

***fishing*** sector, within 12 months of the date of the casualty. If it is not possible to produce the final report within that time, an interim report shall be published within 12 months of the date of the casualty.

## Amendment 15

### Proposal for a directive

#### Article 1 – paragraph 1 – point 12 – point a

Directive 2009/18/EC

Article 15 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure that safety recommendations made by the investigation authorities are duly taken into account by the addressees and, where appropriate, are given an adequate follow-up in accordance with Union and international law.

#### *Amendment*

1. Member States shall ensure that safety recommendations made by the investigation authorities are duly taken into account by the addressees, ***in particular with a view to preventing future accidents,*** and, where appropriate, are given an adequate follow-up in accordance with Union and international law.

## Amendment 16

### Proposal for a directive

#### Article 1 – paragraph 1 – point 12 – point b

Directive 2009/18/EC

Article 15 – paragraph 2

#### *Text proposed by the Commission*

2. ***Where appropriate, an*** investigation authority or the Commission shall make safety recommendations on the basis of an abstract data analysis and of the overall results of safety investigations carried out.

#### *Amendment*

2. ***The*** investigation authority or the Commission shall make safety recommendations on the basis of an abstract data analysis and of the overall results of safety investigations carried out.

## Amendment 17

### Proposal for a directive

#### Article 1 – paragraph 1 – point 14 – point -a (new)

Directive 2009/18/EC

## Article 17 – paragraph 1

*Text proposed by the Commission*

1. Data on marine casualties and incidents shall be stored and analysed by means of a European electronic database to be set up by the Commission, which shall be known as the European Marine Casualty Information Platform (EMCIP).

*Amendment*

**(-a) paragraph 1 is replaced by the following:**

1. Data on marine casualties and incidents **and any relevant lessons drawn from safety investigations** shall be stored and analysed by means of a European electronic database to be set up by the Commission, which shall be known as the European Marine Casualty Information Platform (EMCIP).

## Amendment 18

**Proposal for a directive**

**Article 1 – paragraph 1 – point 14 – point b**

Directive 2009/18/EC

Article 17 – paragraph 3

*Text proposed by the Commission*

3. The investigation authorities of the Member States shall notify all very serious marine casualties to EMCIP. The Member States may decide upon and nominate the competent national authority or authorities to report on all other marine casualties and incidents. When the Commission is aware of a marine casualty or incident, it shall also report thereon to EMCIP.

*Amendment*

3. The investigation authorities of the Member States shall notify all very serious marine casualties to EMCIP. The Member States may decide upon and nominate the competent national authority or authorities to report on all other marine casualties and incidents. When the Commission is aware of a marine casualty or incident, it shall also report thereon to EMCIP. **When the notification concerns a fishing vessel, it shall also contain information on the type of fisheries it conducted at the time of the accident.**

## Amendment 19

**Proposal for a directive**

**Article 1 – paragraph 1 – point 18**

Directive 2009/18/EC

Article 23 – paragraph 1

*Text proposed by the Commission*

The Commission shall by [OP: Please insert a date: ten years from the date of entry into force of this amending Directive] submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive.

*Amendment*

The Commission shall by [OP: Please insert a date: ten years from the date of entry into force of this amending Directive] ***and every five years thereafter*** submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive ***and, where appropriate, present proposals for improvements. When preparing this report the Commission shall, where appropriate, make use of information gathered by EU agencies such as EFCA and EMSA.***

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

The rapporteur has received input from the following entities or persons in the preparation of the opinion, until the adoption thereof in committee:

<b>Entity and/or person</b>
European Transport Workers' Federation Andrea Albertazzi Policy Officer for Fisheries
European Boating Industry, Philip Easthill

The list above is drawn up under the exclusive responsibility of the rapporteur.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector
<b>References</b>	COM(2023)0270 – C9-0189/2023 – 2023/0164(COD)
<b>Committee responsible</b> Date announced in plenary	TRAN 12.6.2023
<b>Opinion by</b> Date announced in plenary	PECH 12.6.2023
<b>Rapporteur for the opinion</b> Date appointed	Niclas Herbst 12.9.2023
<b>Discussed in committee</b>	9.10.2023
<b>Date adopted</b>	29.11.2023
<b>Result of final vote</b>	+: 24 –: 0 0: 0
<b>Members present for the final vote</b>	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
<b>Substitutes present for the final vote</b>	Gabriel Mato
<b>Substitutes under Rule 209(7) present for the final vote</b>	Erik Poulsen, Anne Sander

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
ECR	Ladislav Ilčić, Bert-Jan Ruissen
ID	France Jamet
NI	Marc Tarabella
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

0	-

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention