



**2023/0164(COD)**

13.10.2023

# **AMENDMENTS**

## **10 - 32**

**Draft opinion**

**Niclas Herbst**

(PE753.424v01-00)

Amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

Proposal for a directive

(COM(2023)0270 – C9-0189/2023 – 2023/0164(COD))

AM\_Com\_LegOpinion

## Amendment 10

Izaskun Bilbao Barandica, Pierre Karleskind, Catherine Chabaud

### 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 the authorities should open a safety investigation.

##### *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 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 ***as well as gathering data to be able to better prevent future accidents*** by introducing a preliminary assessment of very serious marine casualties involving fishing vessels less than 15 metres ***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.***

Or. en

## Amendment 11

Niclas Herbst, Francisco José Millán Mon, Gabriel Mato

### 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-

##### *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 **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 the authorities should open a safety investigation.

harmonised. Such vessels are more prone to **accidents and fishers** falling overboard is relatively common. Therefore, there is a need to protect **fishers, as well as** 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 the authorities should open a safety investigation.

Or. en

## Amendment 12

**Francisco José Millán Mon, Gabriel Mato**

### 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 the authorities should open a safety investigation.**

##### *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 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 **the obligation for the investigation authority to carry out a safety investigation** of very serious marine casualties involving fishing vessels less than 15 metres long;

Or. en

## Amendment 13

**Grace O'Sullivan**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

(15) In view of the full monitoring cycle of visits to Member States by EMSA to monitor the implementation of this Directive, the Commission should evaluate the implementation of this Directive no later than [*ten* years after its date of entry into force referred to in Article 23)] and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all the information necessary for the evaluation.

*Amendment*

(15) In view of the full monitoring cycle of visits to Member States by EMSA to monitor the implementation of this Directive, the Commission should evaluate the implementation of this Directive no later than [*five* years after its date of entry into force referred to in Article 23)] and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all the information necessary for the evaluation.

Or. en

**Amendment 14**  
**Izaskun Bilbao Barandica, Pierre Karleskind, Catherine Chabaud**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 3**  
Directive 2009/18/EC  
Article 3 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

**7a. “fishing vessel” shall be understood in accordance with the definition contained in Article 4 of Regulation 1224/2009**

Or. en

**Amendment 15**  
**Grace O'Sullivan**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 5**  
Directive 2009/18/EC  
Article 5 – paragraph 1

*Text proposed by the Commission*

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:

*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 ***or a serious injury***:

Or. en

*Justification*

*A serious injury is defined in the IMO Casualty Investigation Code as “an injury which is sustained by a person, resulting in incapacitation where the person is unable to function normally for more than 72 hours, commencing within seven days from the date when the injury was suffered”. A three-day incapacitation is a serious event and should be investigated in order to prevent future accidents. Under the current proposal, an investigation only takes place in the event of loss of life or vessel.*

**Amendment 16**  
**Clara Aguilera**

**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*

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

*Amendment*

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

Or. en

**Amendment 17**  
**Niclas Herbst, Francisco José Millán Mon, Gabriel Mato**

**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*

(a) involving a ship flying its flag,

*Amendment*

(a) involving a ship flying its flag,

irrespective of the location of the casualty;

irrespective of the *size and type of vessel*  
*and the* location of the casualty;

Or. en

## **Amendment 18**

**Niclas Herbst, Francisco José Millán Mon, Gabriel Mato**

### **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

Or. en

## **Amendment 19**

**Clara Aguilera**

### **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

Or. en

## **Amendment 20**

**Clara Aguilera**

### **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.

Or. en

**Amendment 21**

**Niclas Herbst, Francisco José Millán Mon, Gabriel Mato**

**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.

Or. en

**Amendment 22**

**Grace O'Sullivan**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5**

Directive 2009/18/EC

Article 5 – paragraph 2

*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

*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



conduct a safety investigation.

whether or not to conduct a safety investigation.

Or. en

## **Amendment 23**

**Francisco José Millán Mon, Gabriel Mato**

### **Proposal for a directive**

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

amending Directive 2009/18/EC

Article 5 – paragraph 2

#### *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*

***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).***

Or. en

## **Amendment 24**

**Isabel Carvalhais**

### **Proposal for a directive**

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

Directive 2009/18/EC

Article 5 – paragraph 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 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). ***When the Commission is aware of a very serious marine casualty involving a fishing vessel of less than 15 metres, for which the investigation authority decides not to undertake a safety investigation, the***

*Commission shall be able to request additional information to the investigation authorities regarding the decision not to undertake the safety investigation and, if necessary, request that the investigation authority proceed with the corresponding safety investigation, even if it was initially decided not to investigate.*

Or. en

*Justification*

*Some very serious marine casualties involving a fishing vessel of less than 15 meters when analysed individually, may lead the investigation authorities to decide not to undertake a safety investigation. Nevertheless, the Commission having taken in account similar situations in other Member States may identify the need to address safety measures in particular types of accidents.*

**Amendment 25**

**France Jamet**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 8**

Directive 2009/18/EC

Article 8 – paragraph 2

*Text proposed by the Commission*

3. The activities entrusted to the investigation authority *may be extended to* the gathering and analysis of data relating to maritime safety, in particular for prevention purposes, insofar as these activities do not affect its independence or entail responsibility in regulatory, administrative or standardisation matters.

*Amendment*

3. The activities entrusted to the investigation authority *shall include* the gathering and analysis of data relating to maritime safety, in particular for prevention purposes, insofar as these activities do not affect its independence or entail responsibility in regulatory, administrative or standardisation matters.

Or. fr

**Amendment 26**

**Francisco José Millán Mon, Gabriel Mato**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 8**

*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:

Or. en

**Amendment 27**  
**Grace O'Sullivan**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 8**  
Directive 2009/18/EC  
Article 8 – paragraph 4 – point i a (new)

*Text proposed by the Commission*

*Amendment*

***(ia) have free access to environmental data and ecological survey records pertaining to the immediate area in the case of severe damage to the environment;***

Or. en

*Justification*

*As the IMO definition of 'serious casualties' includes a reference to 'severe damage to the environment' it may help investigators of environmental damage to have access to relevant environmental and ecological data in order to investigate thoroughly.*

## **Amendment 28**

**Francisco José Millán Mon, Gabriel Mato**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 8**

Amending Directive 2009/18/EC

Article 8 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

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

Or. en

## **Amendment 29**

**Izaskun Bilbao Barandica, Pierre Karleskind, Catherine Chabaud**

### **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.***

Or. en

## **Amendment 30**

**Francisco José Millán Mon, Gabriel Mato**

## Proposal for a directive

### Article 1 – paragraph 1 – point 11

Amending Directive 2009/18/EC

Article 14 – paragraph 2

#### *Text proposed by the Commission*

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

#### *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, ***first of all, to the families and victims of accidents***, to the public and, ***most*** especially, to the maritime ***and 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.

Or. en

## Amendment 31

Izaskun Bilbao Barandica, Pierre Karleskind, Catherine Chabaud

## 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.***

Or. en

## Amendment 32

Izaskun Bilbao Barandica, Pierre Karleskind, Catherine Chabaud

### Proposal for a directive

#### Article 1 – paragraph 1 – point 18

Directive 2009/18/EC

Article 23

#### *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.***

Or. en