



MARITIME TRANSPORT: TRAFFIC AND SAFETY RULES

EU directives and regulations have, over the past few years, greatly improved safety standards in sea transport. The improvements were brought about in particular by the three legislative packages adopted in the wake of the Erika and Prestige disasters.

LEGAL BASIS AND OBJECTIVES

Title VI, in particular Articles 91(1)(c) and 100(2), of the Treaty on the Functioning of the European Union (TFEU) is the legal basis. Safety at sea is a key element of maritime transport policy with a view to protecting passengers, crew members, the marine environment and coastal regions. Given the global nature of maritime transport, the International Maritime Organisation (IMO) develops uniform international standards. The primary international agreements include the International Convention for the Prevention of Pollution from Ships (MARPOL), the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). While prompt amendment of EU law to incorporate these international law-based agreements is a major objective of the EU's maritime transport policy, additional measures are also adopted at EU level.

ACHIEVEMENTS

A. Training and qualifications

[Directive 94/58/EC](#) of 22 November 1994 on the minimum level of training of seafarers gave the 1978 STCW Convention the full force of EU law. The convention underwent significant revisions, entailing corresponding revisions to the EU directive, the most recent version of which is [Directive \(EU\) 2022/993](#) of 8 June 2022. It outlines the rules on training and competency standards for seafarer certification, as well as regulated specialist training. The directive also deals with Member States' requirements for seafarer training, communication between crew members, and the verification of crew members' certificates (port State control).

[Directive \(EU\) 2017/2397](#) of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC provides a gradual phasing-in with transitional measures to extend professional qualification requirements beyond the level of boat masters to cover all crew in inland navigation in the EU. The updated directive lays down the obligation for deck crew members and persons in charge of emergency procedures to hold certificates of qualification. Boat masters sailing in hazardous circumstances should



be specifically authorised to do so and should be required to demonstrate additional competences. [Directive \(EU\) 2017/2397](#) was amended by [Directive \(EU\) 2021/1233](#) of 14 July 2021, introducing transitional measures for the recognition of third countries' certificates.

B. Marine equipment

[Directive 96/98/EC](#) of 20 December 1996 on marine equipment aimed to ensure the uniform application of the SOLAS Convention to equipment for commercial vessels, making the IMO resolutions deriving from it mandatory. [Directive 2012/32/EU](#) amended [Directive 96/98/EC](#) by replacing Annex A to adapt it to take account of the most recent amendments to international conventions and applicable testing standards. [Directive 2014/90/EU](#) of 23 July 2014 on marine equipment strengthened the implementation of the relevant rules and the monitoring of their observance.

C. Security on ships and in port facilities

The ISPS (International Ship and Port Facility Security) Code was adopted at an IMO conference in 2002, together with amendments to other international agreements. The aim of the code is to ensure better protection of ships and port facilities. [Regulation \(EC\) No 725/2004](#) of 31 March 2004 was intended to ensure that decisions adopted by the IMO were interpreted and implemented uniformly. The European Union Maritime Security Strategy was launched on 24 June 2014 with the adoption of a Council decision approving it as a political and strategic measure for effectively addressing maritime security challenges using all relevant international, EU and national instruments.

D. Passenger ship safety and ship inspection

The common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (classification societies) were laid down in [Directive 94/57/EC](#) of 22 November 1994. Safety on ships providing scheduled services between two EU ports is regulated by [Directive 2009/45/EC](#) of 6 May 2009, which consolidated and recast the safety rules and standards for passenger ships established by [Directive 98/18/EC](#). [Directive 98/41/EC](#) of 18 June 1998 on the registration of persons sailing on board passenger ships made it possible for passenger numbers to be monitored and for rescue operations to be mounted more efficiently in the event of an accident. The rules on minimum qualifications for seafarers were updated in 2019 with the adoption of [Directive \(EU\) 2019/1159](#).

In 2017, three Directives were adopted. The first, [Directive \(EU\) 2017/2108](#) of 15 November 2017 amending Directive 2009/45/EC on safety rules and standards for passenger ships, sought to clarify and simplify the safety rules and standards for passenger ships. The idea behind the directive was to make the rules easier to update, monitor and enforce.. The second, [Directive \(EU\) 2017/2109](#) of 15 November 2017 amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States, updated and clarified the existing requirements for the counting and registration of passengers and crew on board passenger ships. Amendments included updating the definition of 'port areas' in order to incorporate information on the nationality of the persons on board, and obliging companies to store



lists of passengers and crew in a National Single Window. The third was [Directive \(EU\) 2017/2110](#) of 15 November 2017 on a system of inspections for the safe operation of roll-on/roll-off (ro-ro) passenger ships and high-speed passenger craft in regular service, which amended Directive 2009/16/EC and repealed Council Directive 1999/35/EC. This updated and clarified the existing survey requirements for ro-ro ferries and high-speed craft and provided for a system of ship-based inspections prior to the commencement of a regular service, which can be combined with a flag state survey on a yearly basis.

[Directive \(EU\) 2016/1629](#) of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC, sets out the rules for inland navigation.

[Council Decision \(EU\) 2020/1508](#) on the position to be taken on behalf of the European Union within the European Committee for drawing up standards in the field of Inland navigation (CESNI) and within the Central Commission for the Navigation of the Rhine (CCNR) on the adoption of standards concerning technical requirements for inland waterway vessels was adopted on 12 October 2020. [Directive 2003/25/EC](#) lays out specific stability requirements for ro-ro passenger ships. It was amended by [Directive \(EU\) 2023/946](#) of 10 May 2023.

E. Digital maritime systems and services

The use of digital information improves the efficiency, attractiveness and environmental sustainability of maritime transport and contributes to the integration of the sector into the digital multimodal logistic chain. [Directive 2005/44/EC](#) on harmonised river information services sets a framework for digital information services to aid traffic and transport management in the EU inland waterway transport industry.

On 20 October 2010, the European Parliament and the Council adopted [Directive 2010/65/EU](#) on reporting formalities for ships arriving in and/or departing from ports of the Member States.

In 2018, the Commission published a [proposal for a regulation](#) establishing a European Maritime Single Window (EMSW) environment and repealing Directive 2010/65/EU. The EMSW includes harmonised rules for providing information required for port calls. Following adoption by Parliament and the Council, [Regulation \(EU\) 2019/1239](#) was published in the Official Journal on 25 July 2019. The Commission adopted [Implementing Regulation \(EU\) 2023/204](#) in October 2022 to standardise and define the features of the EMSW to ensure a harmonised reporting environment for users in all Member States. [Commission Delegated Regulation \(EU\) 2023/205](#) of 7 November 2022 amends the list of reporting obligations required by legislation regarding port calls and, moreover, establishes a data set for the EMSW.

F. Developments since the Erika and Prestige disasters

Following the wreck of the oil tankers Erika and Prestige, in 1999 and 2002 respectively, EU safety standards for maritime transport were once again strengthened considerably.

1. Erika I package

[Directive 2001/105/EC](#) of 19 December 2001 strengthened and standardised the legal provisions laid down in [Directive 94/57/EC](#) on ship inspection and survey organisations



(see previous section). In particular, it introduced a system of liability in the event of proven negligence. [Directive 2001/106/EC](#) of 19 December 2001 made port State control mandatory for potentially hazardous vessels and introduced a 'blacklist' of ships which can be refused access to EU ports.

[Regulation \(EC\) No 417/2002](#) of 18 February 2002 set a fixed timetable for withdrawing single-hull oil tankers from service and replacing them with safer double-hull vessels. Following the Prestige oil tanker disaster, a more rigorous timetable was adopted in [Regulation \(EC\) No 1726/2003](#) of 22 July 2003. [Regulation \(EU\) No 530/2012](#) of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers subsequently repealed [Regulation \(EC\) No 417/2002](#) and countered certain potential exemptions under IMO rules. It specified that, for the transport of heavy grade oil, only double-hull oil tankers would be allowed to fly the flag of a Member State, and it banned all single-hull oil tankers, irrespective of the flag, from ports or offshore terminals or from anchoring in areas under the jurisdiction of Member States.

2. Erika II package

[Directive 2002/59/EC](#) of 27 June 2002 established a Community vessel traffic monitoring and information system (SafeSeaNet). Before a ship is allowed to enter a port in a Member State, its owners are responsible for providing certain information to the relevant port authorities, particularly in the case of dangerous or polluting cargoes. The directive made it mandatory for ships to be equipped with automatic identification systems (AIS) and voyage data recorders (VDRs) or 'black boxes'. The authorities of the relevant Member States have the right to prohibit ships from leaving a port in unfavourable weather conditions. [Regulation \(EC\) No 1406/2002](#) of 27 June 2002 established a European Maritime Safety Agency (EMSA) whose role is to provide Member States and the Commission with scientific and technical support, and to ensure that safety rules in maritime transport are enforced. Its remit has considerably expanded over time to incorporate pollution control (operational assistance at the request of Member States) and satellite-based monitoring systems. [Regulation \(EU\) No 100/2013](#) of 15 January 2013 amended the EMSA Regulation, clarifying EMSA's core and ancillary tasks, as well as detailing the role it should play in facilitating cooperation between Member States and the Commission.

On 1 June 2023, the Commission adopted five legislative proposals to modernise EU rules on maritime safety and prevent water pollution from ships. One of these is the proposal for a regulation on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002 ([COM\(2023\)0269](#)). This proposal aims to update the agency mandate to better reflect its growing role in many maritime transport areas, including safety, pollution prevention and environmental protection, climate action, security, surveillance and crisis management, and digitalisation. The draft report from the Committee on Transport and Tourism is [pending a committee decision](#). The committee aims to adopt its report and its negotiation mandate by the end of 2023, with the aim of concluding the interinstitutional negotiations before the 2024 elections.



3. The third maritime safety package and port State control

Following intense negotiations, Parliament and the Council reached agreement in December 2008 on a third legislative package comprising two regulations and six directives:

- A recast of the Directive on port State control ([Directive 2009/16/EC](#) of 23 April 2009) to ensure more frequent and more effective inspections under new monitoring mechanisms linked to potential risk, thereby bringing the procedures, instruments and work done in accordance with the Paris Memorandum of Understanding within the field of application of EU law. On 1 June 2023, the Commission adopted a proposal for a directive amending Directive 2009/16/EC on port State control ([COM\(2023\)0271](#)), which is part of a package to modernise EU rules on maritime safety and aims to update and align EU legislation with international rules and procedures, set by the IMO and/or the International Labour Organization or the Paris MoU. It also updates the way ships are targeted for inspection and will attach more importance to the environmental-related performance and deficiencies of ships in determining their risk profile. The scope of the directive is also amended so that fishing vessels of above 24 metres in length can be inspected under port State control by Member States which wish to carry out these inspections. The draft report from the Committee on transport and tourism is [pending a committee decision](#). The committee aims to adopt its report and its negotiation mandate by the end of 2023, with the aim of concluding the interinstitutional negotiations before the 2024 elections.
- [Directive 2009/21/EC](#) of 23 April 2009 on flag State requirements, which enabled compliance on the part of ships flying a Member State flag to be monitored more effectively. On 1 June 2023, the Commission adopted a proposal for a directive amending Directive 2009/21/EC on compliance with flag State requirements ([COM\(2023\)0272](#)) that updates some references to IMO instruments in the existing definitions and includes further definitions relevant for the directive, introduces the use of the database for verification of the condition of the ship before the ship is allowed to operate, lays down responsibilities and common capacity building for the flag State personnel, requires Member States as flag States to use the Union Maritime Information Exchange System (SafeSeaNet) to control and monitor ships under their flag, and clarifies the scope and coverage of the Quality Management System for flag states. The draft report from the Committee on Transport and Tourism is [pending a committee decision](#). The committee aims to adopt the report and its negotiation mandate by the end of 2023, with the aim of concluding the interinstitutional negotiations before the 2024 elections.
- [Directive 2009/17/EC](#) of 23 April 2009 amending the Directive establishing a Community vessel traffic monitoring and information system (SafeSeaNet), aimed to improve the framework legal conditions concerning places of refuge for ships in distress and to further develop SafeSeaNet;
- [Regulation \(EC\) No 391/2009](#) and [Directive 2009/15/EC](#) of 23 April 2009 established common rules and standards for ship inspection and survey organisations, and were aimed at creating an independent quality-monitoring



system to eliminate the remaining flaws in inspection and certification procedures for the world fleet.

- [Directive 2009/18/EC](#) of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in maritime transport set out the standard principles for investigations at sea of marine casualties and incidents involving vessels flying the flag of an EU Member State and occurring in the territorial sea or internal waters of a Member State. The directive also established a system for pooling findings, known as the ‘permanent cooperation framework’, between EMSA, the Commission and the Member States. On 1 June 2023, the Commission adopted a proposal for a directive amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector ([COM\(2023\)0270](#)) that provides for national accident investigation bodies to receive further support from EMSA. The draft report from the Committee on Transport and Tourism is [pending a committee decision](#). The committee aims to adopt its report and its negotiation mandate by the end of 2023, with the aim of concluding the interinstitutional negotiations before the 2024 elections.
- [Regulation \(EC\) No 392/2009](#) of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (based on the 1974 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea as amended by its protocol of 2002);
- [Directive 2009/20/EC](#) of 23 April 2009 set out the requirements for port State control in respect of ship owners’ certificates of insurance against maritime claims (subject to limitation under the 1976 Convention on Limitation of Liability for Maritime Claims as amended by the 1996 protocol thereto).

ROLE OF THE EUROPEAN PARLIAMENT

Parliament has been supportive of maritime safety initiatives and has worked towards bringing about progress in this area. The two Erika maritime safety packages received the support of Parliament, which contributed to their swift conclusion and secured improvements to the original proposals. Parliament also called for a European coastguard service, for piloting in environmentally sensitive and difficult areas, and for clear emergency decision-making and leadership in the Member States (in particular in relation to the mandatory allocation of a place of refuge or emergency port).

As part of the [review](#) of the [Directive](#) on the Community vessel traffic monitoring and information system (SafeSeaNet), Parliament ensured that Member States are required to designate an appropriate authority to take decisions on how shipwrecks can be prevented and which port should accommodate a ship in need of assistance.

A legal framework for emergency ports, which Parliament had already called for on several occasions, is an essential requirement for the improvement of maritime transport safety. Parliament has thus been the driving force behind the significant improvements made to maritime safety, from the first through to the third maritime safety package (particularly via the work of its temporary MARE Committee in 2004).



In its [resolution](#) on EMSA, Parliament called for the Agency's activities to be expanded. It specifically recommended that its traffic monitoring systems could contribute to a barrier-free European maritime space, which would enable goods and passengers to be transported between Member States by sea with no more formalities than for road transport.

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