

# Maritime safety: discharge by the Member States of their obligations as flag States in accordance with the IMO Conventions

2005/0236(COD) - 23/04/2009 - Final act

**PURPOSE:** to ensure that Member States effectively discharge their obligations as flag States.

**LEGISLATIVE ACT:** Directive 2009/21/EC of the European Parliament and of the Council on compliance with flag State requirements.

**CONTENT:** following a second reading by the European Parliament, the Council adopted this Directive, the objective of which is:

- to ensure that Member States effectively and consistently discharge their obligations as flag States; and
- to enhance safety and prevent pollution from ships flying the flag of a Member State .

The Directive shall apply to the administration of the State whose flag the ship is flying.

**Conditions for allowing a ship to operate upon granting the right to fly the flag of a Member State:** prior to allowing a ship to operate, which has been granted the right to fly its flag, the Member State concerned shall take the measures it deems appropriate to 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 by all reasonable means. It shall, if necessary, consult with the losing flag State in order to establish whether any outstanding deficiencies or safety issues identified by the latter remain unresolved. Whenever another flag State requests information concerning a ship which was previously flying the flag of a Member State, that Member State shall promptly provide details of outstanding deficiencies and any other relevant safety-related information to the requesting flag State.

**Detention of a ship flying the flag of a Member State:** when the administration is informed that a ship flying the flag of the Member State concerned has been detained by a port State, it shall, according to the procedures it has established to this effect, oversee the ship being brought into compliance with the relevant IMO Conventions.

**Accompanying measures:** Member States must ensure that certain specified information concerning ships flying their flag is kept and remains readily accessible for the purposes of the Directive. This includes particulars of the ship (name, IMO number, etc.); dates of surveys and audits; and identification of the recognised organisations involved in the certification and classification of the ship.

**Quality management system and internal evaluation:** by 17/06/2012 each Member State shall develop, implement and maintain a quality management system for the operational parts of the flag State-related activities of its administration. Such quality management system shall be certified in accordance with the applicable international quality standards. Member States which appear on the black list or which appear, for two consecutive years, on the grey list as published in the most recent annual report of the Paris Memorandum of Understanding on Port State shall provide the Commission with a report on their flag State performance no later than four months after the publication of the Paris MOU report. The report shall identify and analyse the main reasons for the lack of compliance that led to the detentions and the deficiencies resulting in black or grey status.

**Flag State auditing process:** Member States shall take the necessary measures for an IMO audit of their administration **at least once every seven years**, subject to a positive reply of the IMO to a timely request of the Member State concerned, and shall publish the outcome of the audit in accordance with relevant national legislation on confidentiality. This provision shall expire at the latest on 17/06/2017 or at an earlier date, as established by the Commission in accordance with the regulatory procedure, if a mandatory IMO Member State Audit Scheme has entered into force.

**Report:** every five years, and for the first time by 17/06/2012 the Commission shall present a report on the application of the Directive, containing an assessment of the performance of the Member States as flag States.

This Directive is part of a series of measures, comprising the **third maritime package**, aiming to strengthen the security of maritime transport in Europe by improving accident prevention and investigations into accidents and by strengthening vessel quality control. (See also [COD/2005/0237](#), [COD/2005/0238](#), [COD/2005/0239](#), [COD/2005/0240](#), [COD/2005/0241](#) and [COD/2005/0242](#)).

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