

European Maritime Safety Agency: further development

2010/0303(COD) - 04/10/2012 - Council position

The Council's position at first reading significantly modifies the original Commission proposal, rewording it and deleting several provisions.

In the Council's view, it is particularly important at a time of limited financial and human resources, the **European Maritime Safety Agency (EMSA) should concentrate on those areas in which the Agency has established and recognised expertise and tools**. The Council has chosen an approach clearly setting out the objectives of the Agency. Furthermore, the Agency's tasks are separated into core tasks and ancillary tasks. Ancillary tasks would only be carried out by the Agency after a thorough examination of cost-effectiveness.

As regards the **amendments put forward by the European Parliament**, the Council indicates that a large number of them have been integrated in its position at first reading wholly, partially or in spirit. The Council's position on Parliament's amendments on certain key issues is the following:

1. The Agency's objectives: the Council welcomes the clear description of the Agency's objectives proposed by the Parliament, and the prioritisation of tasks. However, it is not willing to accept the extension of the Agency's tasks to cover prevention of pollution from offshore oil and gas installations, as suggested by Parliament.

2. The Agency's tasks

- **Training of seafarers:** Parliament proposed several amendments with a view to involving the Agency in the training of seafarers. The Council can agree with the Parliament that EMSA could play a role in matters relating to the training of seafarers, but that **should not be part of its core tasks**, except as far as statistics are concerned, and it should fully respect the responsibility of the Member States for the content and organisation of vocational training (Article 166 TFEU). This is reflected in the Council position.

- **Piracy:** Parliament considered that combating piracy and "illegal traffic" should be a core task for the Agency.

The Council position takes account of the increasing threat of acts of piracy and other unlawful acts against maritime transport, and the fact that the Agency does have certain data at its disposal that could be useful in this respect. It thus includes among the Agency's core tasks **the provision of relevant vessel positioning and earth observation data** to competent national authorities and relevant Union bodies in order to facilitate measures against threats of piracy and of intentional unlawful acts. Data should only be provided upon request, without prejudice to national and Union law, subject to applicable data protection rules.

- **Pollution from offshore oil and gas installations:** in line with what the Commission proposed, the Council believes it is feasible and appropriate to give EMSA a role in the response to marine pollution from offshore installations. However, the Council considers it premature to give the Agency an increased role in the prevention of pollution from offshore oil and gas installations, as suggested by Parliament.

Some of Parliament's concerns were, nevertheless, taken into account in Council's position. In particular:

- the Council introduces a new, broader understanding of marine pollution, covering not only oil but also other hazardous and noxious substances;
 - the Agency's core tasks will include using its CleanSeaNet service to monitor the extent and environmental impact of marine oil pollution caused by oil and gas installations;
 - lastly, in the context of a progress report, the Commission is invited to examine the Agency's potential contribution to the implementation of a future legislative act on the safety of offshore oil and gas prospecting, exploration and production activities, with regard to the prevention of pollution from offshore oil and gas installations.
- **other new tasks assigned to the Agency:** the Council has taken Parliament's amendment into account giving the Agency the task of providing, at the request of a Member State, **appropriate information resulting from EMSA's inspections of recognised organisations** in order to support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States in accordance with Article 9 of Directive 2009/15/EC.

Parliament tabled a number of amendments concerning the establishment of a European Maritime Transport Space without Barriers and closely related matters, such as e-Maritime and the Blue Belt project. The **Blue Belt** concept is thus included among the ancillary tasks in Article 2a(3)(a), as one of the policies and projects supporting the establishment of the European Maritime Transport Space without Barriers.

Parliament proposed that the Agency should not be involved in tasks relating to **inland waterways**. However, the Council considers that it could be useful to give the Agency limited, well-defined ancillary tasks in providing relevant information with regard to classification societies for inland waterway vessels and in exploring the possibility of sharing information between the River Information Services System and maritime transport information systems.

3. Governance structure of the Agency: the main points of divergence between the institutions concern:

- **Decision-making procedure for visits and inspections in the Member States and third countries:** the Commission proposed that the inspections policy should be established through an implementing act whereas Parliament tabled amendments to the effect that the inspections policy should be decided by delegated act.

The Council considers that the current system works well and the Administrative Board is the body best suited to decide on the methodology for the visits. Nevertheless, the Council has introduced an additional safeguard in the event that the Commission disagrees with the methodology decided by the Administrative Board.

As for the other amendments proposed by the Parliament in this context, the Council does not consider it appropriate to involve the Agency in reviewing environmental impact assessments and carrying out inspections in the Member States at the request of the Commission.

- **Gender balance:** Parliament introduced some amendments with the aim of ensuring balanced gender representation on the Administrative Board and when electing the Chairperson, the Deputy Chairperson and third country representatives.

The Council has included a provision to the effect that the Member States and the Commission must each strive for a balanced representation between men and women on the Administrative Board.

- *Provisions concerning the members of the Administrative Board:*Parliament proposed to insert a specific provision on conflicts of interest and to shorten the term of office to four years, renewable once. The current Regulation already contains a provision on conflict of interest for those board members who are nominated in their capacity as professionals from the sectors concerned. The Council therefore finds it more appropriate and simpler to amend this existing provision, making it applicable to all board members.

As regards the term of office of board members, the Council's position shortens it to four years but makes it renewable more than once.

- *Procedure for the appointment of the Executive Director and his term of office:*in its general approach, the Council accepted the proposed duration of the term of office (five + three years). However, the Council considers that it should be renewable only once.

Parliament amended the Commission proposal by increasing the possible renewal period to five years. Furthermore, it proposed that the Parliament committee should be more involved in the selection procedure through an opinion on the candidate selected, which should be considered before appointment and reappointment.

The Council's position sets the possible renewal period at a **maximum of four years**. It also gives the Parliament **the right to invite the candidate selected to an exchange of views**. Nevertheless, the Council does not consider it appropriate to involve the Parliament or the Council in the selection procedure.