













Procedure file


Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2013/0390(COD) Procedure completed
Seafarers Amending Directive 98/59/EC 1996/0290(CNS) Amending Directive 2002/14/EC 1998/0315(COD) Amending Directive 2001/23/EC 2000/0108(CNS) Amending Directive 2008/94/EC 2006/0220(COD) Amending Directive 2009/38/EC 2008/0141(COD)	
Subject 3.15.08 Fishing enterprises, fishermen, working conditions on board 3.20.03 Maritime transport: passengers and freight 3.20.10 Transport undertakings, transport industry employees 4.15.05 Industrial restructuring, job losses, redundancies, relocations, Globalisation Adjustment Fund (EGF) 4.15.10 Worker information, participation, trade unions, works councils 4.15.12 Workers protection and rights, labour law	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Employment and Social Affairs	 MORIN-CHARTIER Elisabeth	17/09/2014
		Shadow rapporteur	
		 JONGERIUS Agnes	
		 GERICKE Arne	
		 TØRNÆS Ulla	
		 LAMBERT Jean	
		 BEGHIN Tiziana	
	Former committee responsible		
	 Employment and Social Affairs		
Committee for opinion	Rapporteur for opinion	Appointed	
 Transport and Tourism	The committee decided not to give an opinion.		
 Fisheries			
Former committee for opinion			
 Transport and Tourism			
 Fisheries			

Committee for opinion on the legal basis

Rapporteur for opinion

Appointed

 JURI Legal Affairs

21/05/2015

[HAUTALA Heidi](#)

Council of the European Union

Council configuration

Meeting

Date

[Environment](#)[3409](#)

18/09/2015

[Employment, Social Policy, Health and Consumer Affairs3357](#)

11/12/2014

European Commission

Commission DG

Commissioner

[Employment, Social Affairs and Inclusion](#)

THYSSEN Marianne

European Economic and
Social Committee
European Committee of the
Regions

Key events

18/11/2013	Legislative proposal published	COM(2013)0798	Summary
21/11/2013	Committee referral announced in Parliament, 1st reading		
20/10/2014	Committee referral announced in Parliament, 1st reading		
11/12/2014	Debate in Council	3357	
01/04/2015	Vote in committee, 1st reading		
01/04/2015	Committee decision to open interinstitutional negotiations with report adopted in committee		
09/04/2015	Committee report tabled for plenary, 1st reading	A8-0127/2015	Summary
28/05/2015	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
08/07/2015	Results of vote in Parliament		
08/07/2015	Decision by Parliament, 1st reading	T8-0259/2015	Summary
18/09/2015	Act adopted by Council after Parliament's 1st reading		
18/09/2015	End of procedure in Parliament		
06/10/2015	Final act signed		
08/10/2015	Final act published in Official Journal		

Technical information

Procedure reference	2013/0390(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation

Legislative instrument	Directive
	Amending Directive 98/59/EC 1996/0290(CNS) Amending Directive 2002/14/EC 1998/0315(COD) Amending Directive 2001/23/EC 2000/0108(CNS) Amending Directive 2008/94/EC 2006/0220(COD) Amending Directive 2009/38/EC 2008/0141(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 153-p2
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/8/00260

Documentation gateway

Legislative proposal		COM(2013)0798	18/11/2013	EC	Summary
Document attached to the procedure		SWD(2013)0461	18/11/2013	EC	
Document attached to the procedure		SWD(2013)0462	18/11/2013	EC	
Committee of the Regions: opinion		CDR0103/2014	03/04/2014	CofR	
Committee draft report		PE541.670	18/12/2014	EP	
Amendments tabled in committee		PE546.841	30/01/2015	EP	
Committee opinion	PECH	PE544.404	02/03/2015	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0127/2015	09/04/2015	EP	Summary
Specific opinion	JURI	PE560.759	17/06/2015	EP	
Text adopted by Parliament, 1st reading/single reading		T8-0259/2015	08/07/2015	EP	Summary
Commission response to text adopted in plenary		SP(2015)554	24/09/2015	EC	
Draft final act		00033/2015/LEX	07/10/2015	CSL	

Additional information

European Commission	EUR-Lex
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Final act

Directive 2015/1794 OJ L 263 08.10.2015, p. 0001 Summary

Seafarers

PURPOSE: to amend several European Directives in order to improve the level of information and consultation of seagoing workers in all Directives.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the EU labour law directives are generally applicable to all sectors of activity and all categories of workers. Nevertheless, seafarers are excluded or can be excluded from the scope of six directives, without any express justification. The directives concerned are the following:

- [Directive 2008/94/EC](#) relating to the protection of employees in the event of the insolvency of their employer (hereafter referred to as the Employer Insolvency Directive);
- [Directive 2009/38/EC](#) on the establishment of European Works Council (hereafter referred to as the European Works Council Directive);
- Directive 2002/14/EC establishing a general framework for informing and consulting employees (hereafter referred to as the Information and Consultation Directive);
- [Directive 98/59/EC](#) on the approximation of the laws of the Member States relating to collective redundancies (hereafter referred to as the Collective Redundancies Directive);
- [Directive 2001/23/EC](#) relating to the safeguarding of employees rights in the event of transfers of undertakings (hereafter referred to as the Transfer of Undertakings Directive);
- [Directive 96/71/EC](#) concerning the posting of workers in the framework of the provision of services (hereafter referred to as the Posting of Workers Directive).

Depending on the situation at national level, exclusions could have a negative impact on a number of rights recognised under the Charter of Fundamental Rights of the European Union, in particular the right to information and consultation within the undertaking and the right to fair and just working conditions.

Most of the Member States have made little or no use of the exclusions which gives rise to a potential situation whereby the same categories of workers are treated differently in the different Member States.

The number of EU national seafarers is steadily decreasing and this could be problematic for the future, notably because experience off-shore is essential for certain shore-based jobs.

Although this could be the consequence of different factors, the lack of interest in maritime careers may be reinforced by the impression that seafarers are less well protected than other employees.

As a consequence, the aim of the proposal is to improve the level of protection of the rights protected under the EU Charter of Fundamental Rights in EU labour law and to ensure a level playing field at EU level.

IMPACT ASSESSMENT: according to the Directive to be amended, different options have been identified:

- suppression of the exclusions for the Insolvency Directive and for the European Works Council Directive;
- granting a derogation concerning the equivalent level of protection for the Information and Consultation Directive;
- including specific provisions for the Collective Redundancies Directive and for the Transfer of Undertakings Directive;

As regards the Posting of Workers Directive, it was decided that no changes should be made.

LEGAL BASIS: This proposal introduces amendments to five existing Directives: Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC. Three of these Directives were adopted with Article 153 TFEU (former Article 137 EC) as legal basis: 2009/38/EC, 2002/14/EC and 2008/94/EC. The legal bases of Directives 98/59/EC and 2001/23/EC were respectively Articles 100 EC and 94 EC, i.e., equivalent to the current Article 115 TFEU.

Despite the different legal bases of the Directives to be amended, having regard to their content, it is clear that they all serve to support and complement Member States' activities in the fields enumerated in Article 153(1) TFEU, in order to further the social policy objectives of the Union.

Article 153(2) TFEU is therefore the adequate legal basis for a single proposal amending the abovementioned five Directives.

CONTENT: this proposal introduces amendments to five Directives in force.

The amending provisions may be summarised as follows:

Right to information and consultation: the proposal recognises an unconditional right to information and consultation of seagoing workers in all Directives which previously allowed for exceptions and derogations from this right (European Works Councils Directive, Information and Consultation Directive, Collective Redundancies Directive, Transfer of Undertakings Directive).

Principles: the proposal also recognises other rights, taking into account the specificity of the sector (suppression in some specific cases of cooling-off periods in the Collective Redundancies Directive or of the transfer of the employment contract/relationship in the Transfer of Undertakings Directive).

Amendments to the Directives:

a) reintroduction of seafarers into the scope of certain Directives:

- the deletion of Article 1(3), point (b) of Directive 2008/94/EC. This will suppress the possibility of excluding share-fishermen from the scope of the Insolvency Directive;
- suppression of Article 1(7) of Directive 2009/38/EC. Merchant navy crews will therefore be covered by the provisions of the European Works Council Directive.

b) new rights: modifications to Article 3(3) of Directive 2002/14/EC in order to clarify that Member States are able to derogate from the general provisions of the Directive only where an equivalent level of protection and effective exercise by the employees concerned is ensured.

c) collective redundancies: Directive 98/59/EC is amended as follows:

- insertion of the definition of transfer, by reference to Directive 2001/23/EC;
- deletion of Article 1(2)(c), thus putting the crews of seagoing vessels within the scope of the Collective Redundancies Directive;

- clarification that the notification provided for by Article 3(1) of the Directive should always be made to the competent authority of the State of the flag. This clarification is necessary because of the potential coexistence of employment contracts under different national laws;
- insertion of a new provision stating that Member States may grant the competent public authority the right to derogate, in part or in full, from the provisions on the cooling-off period when the envisaged collective redundancy is carried out as a consequence of a transfer, having as its object exclusively one vessel or more vessels, or when the employer only operates one vessel. If Member States would like to make use of this derogation, they have to consult social partners when transposing this provision into their legislation. This amendment takes into account the characteristics of the maritime sector.

It should be underlined that in the case of a sale consisting exclusively of one vessel or more, or in the case of an employer operating one vessel, the information and consultation obligation laid down in Article 2 continues to apply.

The Directive remains fully applicable in all other circumstances where the collective dismissal of members of the crew of a vessel is envisaged.

d) transfer of undertakings: current Article 1(3) of Directive 2001/23/EC is repealed. The Directive is made fully applicable to seagoing vessels registered in and/or flying the flag of a Member State, wherever they are situated. However, taking into account the specific characteristics of the maritime sector, Member States may, after consultation of social partners, derogate from the provisions of Chapter II of the Directive in the case of transfers concerning exclusively one seagoing vessel or a number of seagoing vessels, or the undertaking or business being transferred only operates one seagoing vessel. Consequently, in case of transfers concerning vessels exclusively or in the case of the undertaking only operating one vessel, at least the provisions of the Directive concerning information and consultation shall apply.

Vessels are fully covered by the scope of the Directive when they constitute one of the assets being transferred.

Non-regression clause: this clause aims at safeguarding the rights of workers covered by the scope of the proposal as recognised by the Member States before its entry into force.

Review clause: the objective of the review is to monitor the implementation and application of Articles 4 and 5 of the Directive in the Member States, in particular on two issues:

- the phenomenon of flagging out,
- the level of employment of EU seafarers.

Transition period: in order to take into account the differences between Member States regarding the nature of the maritime sector and the extent to which seafarers are included in the scope of national labour legislation, the proposal provides for a transition period of 5 years.

Seafarers

The Committee on Employment and Social Affairs adopted the report by Elisabeth MORIN-CHARTIER (EPP, FR) on the proposal for a directive of the European Parliament and of the Council on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC.

The committee recommended that the European Parliaments position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Social partners agreement: a new recital stipulates that the social partners in the maritime and fisheries sector have reached an agreement of vital importance for the proper implementation of this Directive. That agreement strikes a good balance between the need to improve seafarers' working conditions and the need to take proper account of the sectors specific features.

Safe and secure conditions: seafarers have a right to a safe and secure workplace, in which safety standards are complied with, and should have fair terms of employment and decent living and working conditions, including social protection and professional training. The Union should always strive to improve working and living conditions on board ships, and to exploit the potential for innovation in order to make the maritime sector more attractive to Union seafarers including young workers. Consequently, the Commission should draw up an agenda encouraging young workers to join the sector.

Works Council: it is stated that a member of a special negotiating body or the European Works Council, or his or her representative, who is a member of the crew of a seagoing vessel, shall be entitled to participate in meetings of the special negotiating body or European Works Council or any other meeting within the procedure established under the proposed Directive if he or she is not at sea or in a port in a State other than that in which the undertaking is domiciled when the meeting takes place.

Using new technological developments to enhance remote communication: with a view to maximising the chances of worker representation, use shall be made, wherever possible, of new information and communication technologies in cases where a member of a special negotiating body or a European Works Council or his or her representative, who is a member of the crew of a seagoing vessel is unable to attend a meeting.

Scope: this Directive shall apply to the transfer of a seagoing vessel that is part of a transfer of an undertaking, business, or part of an undertaking or business provided that the transferee is situated within the territorial scope of the Treaty, or the transferred undertaking, business, or part of an undertaking or business remains within the territorial scope of the Treaty.

This Directive shall not apply if the object of the transfer consists exclusively of one or more seagoing vessels.

Deletion of specific derogations: derogations concerning particular provisions of the crews of vessels plying the high sea provided in the proposal have been deleted.

In addition, the proposal provided that when projected collective redundancies of members of a crew, are carried out in connection with or deriving from a transfer of a seagoing vessel, Member States may, after consulting the social partners, grant the competent public authority the power to derogate, in full or in part, from the period provided for in Directive under certain circumstances: these derogations have been deleted.

Other derogations have been deleted concerning the application of Chapter II of the proposed Directive under certain circumstances.

Non-regression clause: the transposition of this Directive should not justify any regression regarding the situation which already prevails in a Member State.

Entry into force: the text shall be transposed in the Member States no later than 2 years after the date of entry into force (against 5 years as proposed by the Commission).

Seafarers

The European Parliament adopted by 642 votes to 38, with 24 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on seafarers amending Directives 2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC.

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendment adopted in plenary amend the Commission proposal as follows:

Increase the number and quality of maritime jobs: a recital stipulated that there is a need for an increase in the number and quality of maritime jobs for citizens of the Union and the importance of improving working conditions on board, inter alia through investment in research, education, training, health and safety. The Union should

The Union should strive to improve working and living conditions on board ships, and to exploit the potential for innovation in order to make the maritime sector more attractive to Union seafarers, including young workers.

Take account of the common understanding reached by social partners: another recital stipulates that in the framework of their social dialogue, the social partners in the maritime sector have reached a common understanding which is of major importance for this Directive. That common understanding strikes a good balance between the need to improve seafarers' working conditions and the need to take proper account of the sector's specific features.

- Amendment to Directive 2008/94/EC on the protection of employees in the event of the insolvency of their employer:

- continue to exclude from the scope of the Directive: it is provided that where such provision already applies in their national legislation, Member States may continue to exclude domestic servants employed by a natural person from the scope of this Directive.

- Amendment to Directive 2002/14/EC establishing a general framework for informing and consulting employees: the Article stipulating that Member States may derogate from this Directive through particular provisions applicable to the crews of vessels plying the high seas has been deleted.

The existence of, and/or possibility of introducing, exclusions may prevent seafarers from fully enjoying their rights to fair and just working conditions and to information and consultation, or limit the full enjoyment of those rights. Insofar as the existence of, and/or possibility of introducing, exclusions is not justified on objective grounds and seafarers are not treated equally, provisions which allow such exclusions should be deleted.

The present legal situation, existing in part as a result of the specific nature of the seafaring profession, gives rise to unequal treatment of the same category of workers by different Member States, according to whether or not they apply the exclusions and optional exclusions allowed by the legislation in force. A significant number of the Member States have made no, or only limited, use of those optional exclusions.

- Amendments to Directive 2009/38/EC on the establishment of a European Works Council:

- possibility to participate in the Works Council: it is stated that a member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, shall be entitled to participate in a meeting of the special negotiating body or of the European Works Council, or in any other meeting under any procedures established pursuant to the procedure laid down in the Directive, where that member or alternate is not at sea or in a port in a country other than that in which the shipping company is domiciled, when the meeting takes place;
- use of new information and communication technologies: meetings shall, where practicable, be scheduled to facilitate the participation of members or alternates, who are members of the crews of seagoing vessels. In cases where a member of a special negotiating body or of a European Works Council, or such a member's alternate, who is a member of the crew of a seagoing vessel, is unable to attend a meeting, the possibility of using, where possible, new information and communication technologies shall be considered.

- Amendments to Directive 98/59/EC on collective redundancies:

- notification of a collective redundancy: where the projected collective redundancy concerns members of the crew of a seagoing vessel, the employer shall notify the competent authority of the state of the flag which the vessel flies.

- Amendment to Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses: the Directive shall apply to a transfer of a seagoing vessel that is part of a transfer of an undertaking, business or part of an undertaking or business, provided that the transferee is situated, or the transferred undertaking, business, or part of an undertaking or business remains, within the territorial scope of the Treaty. It shall not apply where the object of the transfer consists exclusively of one or more seagoing vessels.

Level of protection: the implementation of this Directive shall under no circumstances constitute grounds for a reduction in the general level of protection of persons covered by this Directive, already afforded by the Member States in this field.

Reporting: the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Directive at the latest four years after its entry into force.

Transposition: the text should be transposed in the Members States two years after its entry into force.

Seafarers

PURPOSE: to improve working conditions for and consultation of seagoing workers.

LEGISLATIVE ACT: Directive (EU) 2015/1794 of the European Parliament and of the Council amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council, and Council Directives 98/59/EC and 2001/23/EC, as regards seafarers.

CONTENT: the Directive aims to improve working conditions for seafarers working on vessels flying the flag of one of the 28 EU Member States while taking proper account of the specific features of the maritime sector.

The Directive amends five existing Directives from the scope of which seafarers may be excluded. The five Directives in question are:

- [Directive 2008/94/EC](#) relating to the protection of employees in the event of the insolvency of their employer: the new Directive provides that, where such provision already applies in their national legislation, Member States may continue to exclude domestic servants employed by a natural person from the scope of the Directive;
- [Directive 2009/38/EC](#) on the establishment of European Works Council: the new Directive provides for (i) the possibility for seagoing workers to participate in works councils and (ii) examining the possibility of using new information and communication technologies in cases where a member of a European Works Council who is a member of the crew of a seagoing vessel, is unable to attend a meeting;
- [Directive 2002/14/EC](#) establishing a general framework for informing and consulting employees: the general clause enabling Member States to derogate from the Directive (regarding a general framework for informing and consulting employees) through particular provisions applicable to the crews of vessels plying the high seas, is deleted;
- [Directive 98/59/EC](#) on the approximation of the laws of the Member States relating to collective redundancies: this Directive will now include within its scope the crews of seagoing vessels. Where the projected collective redundancy concerns members of the crew of a seagoing vessel, the employer shall notify the competent authority of the State of the flag which the vessel flies;
- [Directive 2001/23/EC](#) relating to the safeguarding of employees rights in the event of transfers of undertakings: this Directive will now apply to a transfer of a seagoing vessel that is part of a transfer of an undertaking, business, provided that the transferee is situated, or the transferred undertaking, business, or part of an undertaking or business remains, within the territorial scope of the Treaty. This Directive will not apply where the object of the transfer consists exclusively of one or more seagoing vessels.

Level of protection: the implementation of the Directive shall under no circumstances constitute grounds for a reduction in the general level of protection of persons covered by the Directive, already afforded by the Member States in the fields covered by the five amended Directives.

The Directive will be implemented in accordance with the fundamental rights and principles recognised in the Charter of Fundamental Rights of the European Union, in particular the right to fair and just working conditions and to information and consultation within the undertaking.

Commission report: the Commission, after consulting Member States and the social partners at the Union level, shall submit a report on the implementation and application of the Directive by 10.10.2019.

ENTRY INTO FORCE: 9.10.2015.

TRANSPOSITION: 10.10.2017.