








Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Directive		Awaiting signature of act	
Establishing the fundamental principles governing the investigation of accidents in the maritime transport sector			
Amending Directive 2009/18 2005/0240(COD)			
Subject 3.20.03 Maritime transport: passengers and freight 3.20.03.01 Maritime safety 3.70.10 Man-made disasters, industrial pollution and accidents			
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<div>TRAN</div> Transport and Tourism		20/07/2023
		<div></div> NAGTEGAAL Caroline	
		Shadow rapporteur	
		<div></div> ADAMOWICZ Magdalena	
		<div></div> TAX Vera	
		<div></div> DELLI Karima	
		<div></div> FIDANZA Carlo	
		<div></div> DALY Clare	
	Committee for opinion	Rapporteur for opinion	Appointed
	<div>PECH</div> Fisheries		12/09/2023
		<div></div> HERBST Niclas	
Council of the European Union	Commission DG	Commissioner	
European Commission	Maritime Affairs and Fisheries		
	Mobility and Transport		
European Economic and Social Committee			
European Committee of the			

Key events

01/06/2023	Legislative proposal published	COM(2023)0270	Summary
12/06/2023	Committee referral announced in Parliament, 1st reading		
07/12/2023	Vote in committee, 1st reading		
07/12/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
08/12/2023	Committee report tabled for plenary, 1st reading	A9-0422/2023	Summary
11/12/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
13/12/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
28/02/2024	Act adopted by Council after Parliament's 1st reading		
04/03/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE759.742 GEDA/A/(2024)001235	
10/04/2024	Decision by Parliament, 1st reading	T9-0200/2024	Summary

Technical information

Procedure reference	2023/0164(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2009/18 2005/0240(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 100-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	Awaiting signature of act
Committee dossier	TRAN/9/12170

Documentation gateway

Legislative proposal		COM(2023)0270	01/06/2023	EC	Summary
Document attached to the procedure		SEC(2023)0201	01/06/2023	EC	
Document attached to the procedure		SWD(2023)0145	01/06/2023	EC	
Document attached to the procedure		SWD(2023)0146	01/06/2023	EC	
Committee draft report		PE753.003	18/09/2023	EP	

Economic and Social Committee: opinion, report		CES2982/2023	20/09/2023	ESC	
Amendments tabled in committee		PE754.740	12/10/2023	EP	
Committee opinion	PECH	PE753.424	29/11/2023	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0422/2023	08/12/2023	EP	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A/(2024)001235	28/02/2024	CSL	
Text agreed during interinstitutional negotiations		PE759.742	29/02/2024	EP	
Text adopted by Parliament, 1st reading/single reading		T9-0200/2024	10/04/2024	EP	Summary

Additional information		
Research document	Briefing	26/10/2023

Establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

PURPOSE: to amend Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.

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: Directive 2009/18/EC provides for a system of safety investigations to learn lessons from maritime accidents and to prevent their reoccurrence. Maritime accidents falling within the scope of the Directive are investigated to improve maritime safety and to protect the marine environment.

Since the entry into force of Directive 2009/18/EC, there have been changes in the international regulatory environment and technological developments. In addition to the need to update the Directive to take account of legal, environmental and technological developments since its adoption, it is also necessary to take into account the lessons learned from the implementation of the Directive.

The Commission carried out an ex-post evaluation and quality assessment of maritime transport in 2018. The Commission concluded that, although the Directive has largely achieved its objectives and presented EU added value, it needs to be updated and requires some improvements. The current EU regulatory framework needs to be updated in order to: (i) maintain EU rules where necessary and proportionate; (ii) ensure their correct implementation; and (iii) eliminate any potential overlap of obligations and inconsistencies between related pieces of legislation.

This initiative is part of a package to modernise EU rules on maritime safety.

CONTENT: the main changes to the Directive concern the following:

Compliance with IMO Casualty Investigation Code

It is proposed to update a number of definitions and references to relevant EU legislation and International Maritime Organisation (IMO) regulations in the interests of clarity and consistency.

Purpose and scope

The scope of the Directive would be partially extended to all fishing vessels, including those less than 15 metres in length. Small fishing vessels of less than 15 metres in length are not included in the current scope of the Directive, which means that accidents involving loss of life and loss of vessels are not systematically investigated throughout the European Union.

Definitions

The proposal updates a number of definitions that have been problematic or that refer to outdated EU legislation. References to ro-ro passenger ships and high-speed passenger craft are updated to take account of changes to EU legislation. The length of a fishing vessel is clarified as the overall length. The issue of non-fatal injuries that result in death some time after the maritime event that caused them is also addressed.

In order to provide clear guidance as to when an investigation should be initiated and thus ensure a harmonised approach across the Union, the Directive is amended to include a specific time limit (i.e. 30 days after the accident, as for other modes of transport).

Obligation to investigate and investigation Authorities

The proposal makes changes to the obligation to investigate and provides that, in relation to a very serious marine casualty (loss of the vessel

and/or a fatality) involving a fishing vessel of less than 15 metres in length, Member States are obliged to at least carry out a preliminary assessment to determine if a safety investigation should be carried out.

It is also proposed that Member States should establish a quality management system (QMS) for their marine safety investigation Authority. This measure should improve the quality of the accident investigations, the management of available resources having regard to the workload and especially the reports written.

European database for marine casualties

Two changes have been made to the reporting obligations of Member States as regards the European Maritime Casualty Information Platform (EMCIP): (1) the Directive specifies their obligations regarding very serious marine casualties involving fishing vessels of less than 15 metres in length; (2) the Directive is adapted so that all marine casualties and incidents other than very serious marine casualties can be notified to EMCIP by a duly designated competent authority of a Member State other than the marine safety investigation Authority.

In addition, EMSA and the Commission should be able to input data to the EMCIP database.

Support and training by EMSA

The proposal sets out the possibilities for EMSA to provide support to the EU Member States investigation authorities to better discharge their responsibilities under the Directive. Many accident investigation bodies lack sufficient resources to have an expert on every specialised discipline. On the basis of this provision EMSA could

- make available a pool of experts of different disciplines who could be of service to any requesting investigation authority;
- provide specialised tools and equipment, which can be lent or provided to the investigation authorities;
- take a role in raising awareness of developments, disseminating information, and organising discussions and training courses on subjects such as renewable and low carbon fuels, new digital technologies and relevant developments at the IMO level;
- provide dedicated training on the use of investigative technologies, equipment and on new technologies relating to the developments in maritime transport.

Budgetary implications

The estimated additional annual costs for the EU budget amount to around EUR 1.88 million per annum in 2030 and EUR 1.93 million per annum in 2050.

Establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

The Committee on Transport and Tourism adopted the report by Caroline NAGTEGAAL (Renew, NL) on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Obligation to investigate

The amended text stated that a safety investigation should be started without delay after the marine casualty or incident occurs and, in any event, no later than one month after its occurrence as opposed to two months proposed by the Commission.

The investigation authority should make every effort to conclude an investigation within 12 months of the date of the marine casualty or incident. If the investigation cannot be concluded within 12 months, and until it is concluded, the investigation authority should publish a report at least every year on the anniversary of the date of the marine casualty or incident, detailing the progress of the investigation and any safety issues raised.

Investigative bodies

At the request of the responsible national authorities, the Commission and the European Maritime Safety Agency (EMSA) should assist the responsible national authorities. Furthermore, both the Commission and EMSA should assist accident investigation authorities in the implementation of harmonised EU wide quality management systems and their systematic application.

Training

Members suggested that the Commission and the European Maritime Safety Agency (EMSA) should facilitate the development of capacities as well as the sharing of knowledge within and between the investigation authorities through the provision of regular training sessions and certifications on new legal and technological developments, specific techniques and tools and technologies relating to ships, their equipment and operations. Sufficient means should be provided to EMSA to organise dedicated training.

Establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

The European Parliament adopted by 353 votes to 214, with 55 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.

The position adopted by the European Parliament at first reading under the ordinary legislative procedure is as follows:

Objective

The proposed directive aims to establish rules governing marine safety investigations pursuant to this Directive is not to determine liability or apportion blame, no fault or liability should be inferred from the findings of those investigations. Member States should ensure that the marine safety investigation authorities are not prevented or hindered from fully reporting the causes of a marine casualty or incident.

Obligation to investigate

In the case of a fishing vessel of less than 15 metres in length, the investigation authority should without delay and no later than two months after the very serious marine casualty, carry out a preliminary assessment to determine whether to conduct a safety investigation. Where the investigation authority decides not to conduct such a safety investigation, the reasons for that decision should without delay and no later than two months after the very serious marine casualty be recorded and notified.

When deciding whether a marine casualty or incident occurring alongside, moored or in dock, involving shore or port workers, occurred directly in connection with the operations of a ship and, therefore, is subject to a safety investigation, Member States should, in accordance with their national law, give particular consideration to the involvement of the ships structure, equipment, procedures, crew and ship management in and their relevance to the activity being undertaken.

Ro-ro passenger ship or high-speed passenger craft

The amended text stipulated that when a ro-ro passenger ship or high-speed passenger craft is involved in a marine casualty or incident, the safety investigation procedure should be launched by the Member State in whose territorial sea or internal waters, as defined in UNCLOS, the marine casualty or incident occurs.

If the marine casualty or incident occurs in other waters, the safety investigation procedure should be launched by the last Member State visited by that ro-ro passenger ship or high-speed passenger craft. The Member State that launched the safety investigation procedure should remain responsible for the safety investigation and for the coordination with other substantially interested Member States until it is mutually agreed which of those Member States is to be the lead investigating Member State.

Marine safety investigation authority

Member States should ensure that safety investigations are conducted under the responsibility of an impartial, independent and permanent safety investigation authority, endowed with the necessary powers and with sufficient means and financial resources, and with suitably qualified investigators, competent in matters relating to marine casualties and incidents.

Each Member State may develop, implement and maintain a quality management system for its safety investigation authority.

The permanent cooperation framework should support investigation authorities and enhance their safety investigation capabilities by drawing up guidance and recommendations to ensure that safety investigations are conducted in a consistent manner, and should in this regard develop and implement a peer review programme.

Confidentiality

A Member State, acting in the framework of its legal system, should ensure that the following records are not made available for purposes other than the safety investigation, unless that Member States competent authority concludes that there is an overriding public interest in the disclosure of those records.

It concerns, inter alia, all statements taken from persons by the safety investigation authority in the course of the safety investigation; records revealing the identity of persons who have given evidence in the context of the safety investigation; information collected by the safety investigation authority that is of a particularly sensitive and personal nature, including information concerning the health of individuals or information and evidence provided by safety investigators from other Member States or third countries.

Investigation led by a third country

Where a substantially interested third country is leading a safety investigation involving one or more Member States, those Member States may decide not to conduct a parallel safety investigation, provided that the safety investigation led by the third country is conducted in accordance with the IMO Casualty Investigation Code.

Delegated acts

In order to adapt Directive 2009/18/EC to the evolution of international maritime law related to the investigation of accidents in the maritime transport sector, and to facilitate the gathering, sharing and reporting of knowledge, the Commission could adopt delegated acts in respect of amending the Annexes to this Directive.

Review

The Commission should by 90 months from the date of entry into force of this amending Directive submit a report to the European Parliament and to the Council on the implementation of, and compliance with, this Directive, and, if necessary, should propose further measures in the light of the recommendations set out therein, including considering the possibility of including mandatory safety investigation for fishing vessels of less than 15 meters in length in the scope of this Directive and the impact thereof on the workload of the safety investigation authorities.

Transparency				
NAGTEGAAL Caroline	Shadow rapporteur	TRAN	30/08/2023	KVNR