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Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2023/0165(COD) Awaiting Council's 1st reading position
Port State control Amending Directive 2009/16	2005/0238(COD)
Subject 3.20.03.01 Maritime safety 3.20.09 Ports policy 3.20.15.06 Maritime or inland transport agreements and cooperation	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Transport and Tourism	 TAX Vera	13/07/2023
		Shadow rapporteur	
		 NOVAK Ljudmila	
		 KARLESKIND Pierre	
		 CORRAO Ignazio	
		 CAMPOMENOSI Marco	
		 VAN OVERTVELDT Johan	
		 DALY Clare	
	Committee for opinion	Rapporteur for opinion	Appointed
 Budgets	The committee decided not to give an opinion.		
 Employment and Social Affairs	The committee decided not to give an opinion.		
 Environment, Public Health and Food Safety	The committee decided not to give an opinion.		
 Fisheries		18/07/2023	
	 BILBAO BARANDICA Izaskun		

Key events

01/06/2023	Legislative proposal published	COM(2023)0271	Summary
10/07/2023	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	A9-0419/2023	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)		
20/03/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE759.995 GEDA/A/(2024)001593	
10/04/2024	Decision by Parliament, 1st reading	T9-0201/2024	

Technical information

Procedure reference	2023/0165(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2009/16 2005/0238(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 Council's 1st reading position
Committee dossier	TRAN/9/12166

Documentation gateway

Legislative proposal	COM(2023)0271	01/06/2023	EC	Summary
Document attached to the procedure	SEC(2023)0202	01/06/2023	EC	

Document attached to the procedure		SWD(2023)0148	01/06/2023	EC	
Document attached to the procedure		SWD(2023)0149	01/06/2023	EC	
Committee draft report		PE752.958	19/09/2023	EP	
Economic and Social Committee: opinion, report		CES2988/2023	20/09/2023	ESC	
Amendments tabled in committee		PE754.725	12/10/2023	EP	
Committee opinion	PECH	PE753.475	29/11/2023	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0419/2023	08/12/2023	EP	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A/(2024)001593	15/03/2024	CSL	
Text agreed during interinstitutional negotiations		PE759.995	15/03/2024	EP	
Text adopted by Parliament, 1st reading/single reading		T9-0201/2024	10/04/2024	EP	

Additional information

Research document	Briefing	12/01/2024
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Port State control

PURPOSE: to update certain provisions of Directive 2009/16/EC on port State control.

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 2009/16/EC regulates port State control inspections at EU level. Port State control (PSC) is a system of inspection of foreign ships in ports of states other than the flag state by PSC officers to verify that the competency of the master, officers and crew on board, the condition of a ship, and its equipment comply with the requirements of international conventions and in the European Union, with applicable EU law.

Since the Directive 2009/16/EC entered into force, there have been changes in the international regulatory environment (in particular in the Paris MOU and the International Maritime Organisation) and technological developments. Those changes as well as the experience gained from implementation of Directive 2009/16/EC should be taken into account.

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

CONTENT: in the light of this, the Commission has prepared a proposal to amend Directive 2009/16/EC. It aims to update and align EU legislation with international rules and procedures, set by the IMO/ILO or the Paris MOU.

Purpose, definition and scope

The scope of the Directive is partially extended to bring a number of international conventions within the scope of port State control inspections. These are the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) and the International Convention on the Removal of Wrecks (Nairobi) both of which are in force and have been adopted as relevant instruments by the Paris MOU.

The scope is also amended so that fishing vessels of above 24 metres in length can be inspected under PSC by those Member States who wish to carry out these inspections. A voluntary system of control for this type of vessel should increase the level of compliance with international standards of safety and environmental protection applicable to these vessels.

Ship risk profile

The proposal also updates the way in which ships are targeted for inspection to take account of the new requirements and will attach greater importance to the environmental performance and deficiencies of ships in determining their risk profile. The proposal defines the environmental parameters that will be taken into account to establish the ship risk profile used to target ships for inspection.

Force majeure situations

The proposal addresses the issue of lack of flexibility of the PSC regime in cases of crisis or unexpected events, such as the COVID-19 pandemic. In order to make the regime more resilient, a more flexible measure is introduced allowing Member States to miss inspections in cases of force majeure, provided that the missed inspection is recorded and the reason for missing the inspection is documented.

Pre-arrival notification

The amendments intend to align the Directive to the Paris MOU changes abolishing the 72-hour reporting obligation for vessels eligible for an expanded inspection.

Expanded inspections

Due to their complexity, it is proposed that expanded inspections should be carried out by more than one port State control officer.

Refusal of access

The Directive is amended to align it to the changes adopted by the Paris MOU relating to the refusal of access (banning) procedure and the possibility to ban vessels which are on the grey or white lists of the Paris MOU (flag-blind banning) as well as provision related to jumped detention or when the detained vessel does not proceed to an agreed repair yard.

EMSA training

The proposal sets out the possibilities for EMSA to provide training to the EU Member States to better fulfil their responsibilities under the Directive, given the widened scope of PSC and improvements in the scope and type of training. A new professional development and training programme for inspectors should be developed, to be made up of a (i) syllabus of competence and a (ii) professional development scheme. Once these aspects are in place, the Agency should identify and provide new training needs to amend the curricula, syllabi and content of the professional development and training program for inspectors, especially as regards new technologies and in relation to the additional obligations arising from new IMO conventions.

Electronic certificates

The use of electronic certificates should be encouraged. These would rely on a common template, use a common validation tool and repository at EU level, which would link the use of electronic certificates with the ship risk profile.

Implementation review

The proposal provides that the Commission will produce a review of the implementation of the amended Directive 10 years after adoption. This takes account of the time necessary for transposition and the fact that an EMSA review cycle of visits to Member States typically takes no less than 5 years.

Budgetary implications

The proposal gives rise to net present costs for the Union Budget of EUR 6.479 million over the period 2025-2050.

Port State control

The Committee on Transport and Tourism adopted the report by Vera TAX (S&D, NL) on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control.

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:

Scope

The report clarified that until such time as a mandatory port State control regime for fishing vessels applies throughout the Union, as a result of the entry into force of the Cape Town Agreement and the amendment of the relevant Union legal acts, individual Member States may carry out port state control inspections of fishing vessels of above 24 metres length overall.

Complaints

The amended text stated that Member States should inform the flag State administration, with a copy to the International Labour Organisation (ILO) and the European Maritime Safety Agency (EMSA), of complaints not manifestly unfounded and of follow-up actions taken. The Agency should be invited by Member States, in line with the EMSA regulation, to provide operational and technical support concerning safety investigations.

Refusal of access

The refusal of access order should be lifted after a period of 12 months has elapsed on condition that the owner or operator provides evidence to the satisfaction of the competent authority of the Member State where the ship was found defective, demonstrating that the ship fully complies with all applicable requirements of the Conventions.

ESMAs involvement

In cooperation with Member States, the Commission should:

- ensure adequate support for the harmonisation of port State control practices across the Union, reporting to the European Parliament and the Council every 4 years on the level of harmonisation and standards of the inspections;
- develop a professional development and training programme for port State control inspectors. The Commission should build on the expertise of EMSA and support its activity, as the trainings it proposes contribute to the harmonisation of port State control officers practices;
- on a continuous basis, identify and provide new training needs to amend the curricula, syllabi and content of the professional development and training programme for inspectors, especially as regards new technologies and in relation to the additional obligations arising from the relevant instruments in order to facilitate compliance with environmental, social, public health and labour law standards and safety on-board ships calling at Union ports for both seafarers and dock workers, with a special focus on female workers.

Moreover, the Commission, with the involvement of EMSA, should produce a guidance document offering advice on how to implement international Conventions, in particular the MLC 2006, with regard to port State control. EMSA should also provide detailed information about

the most frequent problems detected during port State inspections of ships under each flag.

Inspection database

Members stated that electronic certificates should be mandatory for all Members States as early as possible after the entry into force of this amending directive and in any case no later than three years thereafter. Ships flying the flag of a State that issue such electronic certificates should have this reflected in the ship risk profile (SRP) as set out in Annexes I and II until the electronic certificate becomes compulsory.

Publication of information

According to the report, the Commission should make available and maintain on a public website the information on inspections, detentions and refusals of access. Information identifying an individual ship should only be made publicly available if all legal proceedings are finalised and there is no appeal.

Review

Lastly, Members considered that the Commission should, by five years from the date of entry into force of this amending Directive, submit a report to the European Parliament and the Council on the progress by Member States on the ratification of international agreements containing obligations related to fisheries as well as assessing how these obligations should be transposed into Union law and, where appropriate, present a legislative proposal to this effect.

Transparency				
TAX Vera	Rapporteur	TRAN	20/09/2023	ECSA
KARLESKIND Pierre	Shadow rapporteur	TRAN	19/09/2023	Eurotunnel
TAX Vera	Rapporteur	TRAN	19/09/2023	WSC
TAX Vera	Rapporteur	TRAN	18/09/2023	T&E
TAX Vera	Rapporteur	TRAN	12/09/2023	Dutch Permanent Representation
TAX Vera	Rapporteur	TRAN	07/09/2023	ETF
TAX Vera	Rapporteur	TRAN	07/09/2023	IACS
TAX Vera	Rapporteur	TRAN	06/09/2023	ETF
TAX Vera	Rapporteur	TRAN	06/09/2023	ECSA
TAX Vera	Rapporteur	TRAN	31/08/2023	European Commission