Investigation of accidents in the maritime transport sector

2005/0240(COD) - 24/09/2008 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution amending the Council's common position for adopting a directive of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC. The recommendation for second reading (under the codecision procedure) was tabled for consideration in plenary by Jaromír KOHLICEK (GUE/NGL, CZ) on behalf of the Committee on Transport and Tourism.

Several of these amendments are re-introduced from 1st reading and the main ones are as follows :

Distress alerts: these should remain within the scope of the Directive as originally proposed by the Commission.

Definitions: the terms "serious casualty" and "less serious casualty" shall be understood in accordance with the updated definitions contained in Circular 953 of the IMO Maritime Safety Committee. Members inserted a definition for 'distress alert'. "Distress alert" means a signal given from a ship, or information from any source, indicating that a ship is, or that persons on or from a ship are, in distress at sea. The definition of 'safety recommendation was amended.' The Commission must take into account the results of investigations carried out.

Common methodology: the Commission must take into account the conclusions of the accident reports and the safety recommendations contained therein when modifying the common methodology.

Serious accidents: safety investigations should be mandatory in the event of serious accidents (as well as very serious accidents) as proposed by the Commission. In addition to investigating serious and very serious casualties, the investigative body shall, having established the initial facts of the case, decide whether or not a safety investigation of a less serious casualty, marine incident or a distress alert shall be undertaken. In its decision, the investigative body shall take into account the seriousness of the casualty or incident, the type of vessel and/or cargo involved in the distress alert, and any request from the search and rescue authorities.

Safety investigation: a safety investigation shall be started as promptly as is practicable after the marine casualty or incident occurs and, in any event, no later than two months after its occurrence. Members States must ensure that safety investigations are independent of criminal or other parallel investigations held to determine liability or apportion blame and allow only the conclusions or recommendations resulting from investigations initiated under this Directive to be used in judicial investigations;

Lead investigating Member State: in cases of serious and very serious casualties involving a substantial interest for two or more Member States, the Member States concerned shall rapidly agree which of them is to be the lead investigating Member State. Should the Member States concerned not be able to determine which Member State is to lead the investigation, the Commission shall take a decision on the matter based on an opinion of the Agency, which shall be immediately implemented. The Council's text had not given the Commission the deciding voice.

Functional independence of investigative body: Parliament placed more emphasis on this and tightened up the wording in the Council's text. The investigative body shall be functionally independent of, in particular, the national authorities responsible for seaworthiness, certification, inspection, manning, safe navigation, maintenance, sea traffic control, port state control and operation of seaports, of bodies carrying out investigations for the purposes of establishing liability or law enforcement and, in general, of any other party whose interests could conflict with the task entrusted to it.

Parliament deleted Member States' obligation to provide pertinent information to the investigative body, which was contained in the Commission proposal. It inserted instead a clause stating that any Member State, the facilities or services of which have been, or would normally have been, used by a ship prior to a casualty or an incident, and which has information pertinent to the investigation, shall provide that information to the investigative body conducting the investigation.

Non-disclosure of records: certain records must not be made available for purposes other than the safety investigation. Members deleted the Council's exceptions. Furthermore, Member States shall ensure that, witness statements and other information provided by witnesses in the course of safety investigations are not obtained by third country authorities, thus preventing such statements and information from being used in criminal investigations in such countries.

Fair treatment of seafarers: a new article states that in accordance with their national law, Member States shall apply the relevant provisions of the IMO guidelines on the fair treatment of seafarers in the event of a maritime accident.

Report: every three years, the Commission shall send a report providing information to the European Parliament setting out the degree of implementation of, and compliance with, the provisions of this Directive, as well as any further steps considered necessary in the light of the recommendations set out in the report.

Transposition: Member States must communicate to the Commission the text of legislation transposing the Directive and a correlation table between those provisions and the Directive.