

Maritime safety: establishing a Community vessel traffic monitoring and information system

2005/0239(COD) - 24/09/2008 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution amending the Council common position for adopting a directive of the European Parliament and of the Council amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system.

The recommendation for second reading (co-decision procedure) had been tabled for consideration in plenary by Dirk **STERCKX** (ALDE, BE) on behalf of the Committee on Transport and Tourism.

The Parliament reintroduces several amendments from first reading:

Purpose of the directive: MEPs specify that the purpose of the directive is to establish in the Community a vessel traffic monitoring and information system with a view to enhancing the safety and efficiency of maritime traffic, port and maritime security, improving the response of authorities to incidents, accidents or potentially dangerous situations at sea, including search and rescue operations, and contributing to better prevention and detection of pollution by ships. The Directive shall also lay down rules applicable to certain aspects of the obligations on operators in the maritime-transport chain as regards civil liability and shall introduce suitable financial protection for seafarers in the event of abandonment.

Competent authority for accommodation of ships in need of assistance: MEPs propose that each Member State shall designate a competent authority which has the required expertise and is independent insofar as it has the power, at the time of the rescue operation, to take decisions on its own initiative concerning the accommodation of ships in distress with a view to the protection of human lives, coastal protection, the protection of the marine environment, safety at sea and minimising economic damage. The authority may, inter alia: (i) restrict the movement of the ship or direct it to follow a specific course; (ii) give official notice to the master of the ship to put an end to the threat to the environment or maritime safety; (iii) come aboard or send an evaluation team aboard the ship to assess the damage to the ship and the degree of risk, help the master to remedy the situation and keep the competent coastal station informed; (iv) call on and deploy rescue workers where necessary; (v) cause the ship to be piloted or towed.

Ships in need of assistance: the Commission, supported by the European Parliament, used the expression “ships in distress”. Basing itself on IMO guidelines for the accommodation of ships in need of assistance, the common position uses the expression “ships in need of assistance”. While agreeing with the Council on this point, MEPs wish to make it clear that the rescue of persons on board is primarily governed by the 1979 Search and Rescue Convention (SAR) concerning the rescue of human lives.

Fair treatment of masters and crews: MEPs urge Member States to apply Resolution LEG.3(91) of the IMO Legal Committee, of 27 April 2006, on the adoption of Guidelines on the fair treatment of seafarers in the event of a maritime accident. Therefore, according to MEPs, master and crews should be treated fairly and not be criminalised in the event of an accident.

Use of long-range identification and tracking of ships (LRIT): any ship engaged in international voyages calling at a port of a Member State shall be fitted with an LRIT system in accordance with the SOLAS Convention and the performance standards and functional requirements adopted by the IMO. The Commission shall lay down, in cooperation with the Member States, the modalities and requirements for the fitting of LRIT equipment on board ships sailing in waters within the coverage of AIS fixed-based

stations of Member States, in accordance with the regulatory procedure with scrutiny. Member States and the Commission shall cooperate to establish an LRIT European Data Centre (a component of the European maritime information and exchange system, SafeSeaNet) in charge of processing the long-range identification and tracking information.

Liability and financial-guarantee regime: MEPs propose that Member States shall determine the regime of civil liability for ship owners and shall ensure that the right of ship owners to limit their liability is governed by all provisions of the 1996 Convention. Each Member State shall take the necessary measures to ensure that every owner of a ship flying its flag provides a financial guarantee for civil liability in accordance with the ceiling laid down in the 1996 Convention. Every owner of a ship flying the flag of a third country shall also provide a financial guarantee, as soon as that ship enters their exclusive economic area or equivalent area.

Abandonment of seafarers: Member States shall take the necessary measures to ensure that every owner of a ship flying their flag provides a financial guarantee to protect seafarers employed or engaged on board the ship in case of abandonment, in accordance with IMO Resolution A .930(22).

Financial-guarantee certificates: the existence of the financial guarantee and the validity thereof shall be proved by one or more certificates. Certificates shall be issued by the competent authorities of the Member States. The conditions for the issue and the validity of certificates, in particular the criteria and conditions for issue, shall be determined by the Commission. The certificate shall be carried on board the ship. The operator, agent or captain of a ship entering the exclusive economic area or equivalent area of a Member State shall notify the authorities of that Member State that a financial guarantee certificate is being carried on board. Furthermore, MEPs call for the mutual recognition by Member States of financial guarantee certificates.

Absence of financial guarantees or insurance: according to MEPs, the absence of financial guarantees or insurance does not exonerate a Member State from its obligation to assist a ship in distress and to accommodate it in a place of refuge if by doing so it can reduce the risks to the crew and the environment. The act of requesting the certificate shall not lead to a delay in accommodating the ship in distress.

Compensation for ports and places of refuge: MEPs propose that Member States shall ensure the reimbursement of costs and potential economic damage suffered by a port as a result of accommodating a ship in distress, if such costs or damage are not reimbursed within a reasonable time by the owner or operator of the ship pursuant to the Directive and the existing financial compensation mechanisms.