

Common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations. Recast

2005/0237A(COD) - 23/04/2009 - Final act

PURPOSE: to establish measures to be followed by the Member States in their relationship with organisations entrusted with the inspection, survey and certification of ships, operating in the Community.

LEGISLATIVE ACT: Directive 2009/15/EC of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

CONTENT: following conciliation between Parliament and Council and a third reading by the European Parliament, the Council adopted this Directive which aims at recasting successive amendments to Directive 94/57/EC establishing common rules and standards for organisations that inspect ships and issue ships' certificates, known as recognised organisations. The purpose of the Directive is to reform the current system for Community recognition of the bodies tasked by the Member States with inspecting and certifying ship safety under international conventions (classification societies), a system set up by Directive 94/57/EC.

The Directive establishes measures to be followed by the Member States in their relationship with organisations entrusted with the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services. This includes the development and implementation of safety requirements for hull, machinery and electrical and control installations of ships falling under the scope of the international conventions.

The Council decided to split the Commission's initial proposal into two separate instruments, a Directive and a Regulation, in order to ensure that the system is legally watertight, particularly as it involves imposing obligations on recognised organisations and setting up a system of financial penalties. This was supported by the European Parliament.

The Directive notes that worldwide, a large number of the existing organisations recognised by International Maritime Organisation (IMO) Contracting Parties do not ensure either adequate implementation of the rules or sufficient reliability when acting on behalf of national administrations as they do not have reliable and adequate structures and experience to enable them to carry out their duties in a highly professional manner. This Directive is intended to rectify that.

The main points of the Directive are as follows:

- in assuming their responsibilities and obligations under the international conventions (i.e SOLAS and MARPOL) , Member States must ensure that their competent administrations can ensure appropriate enforcement of the provisions thereof, in particular with regard to the inspection and survey of ships and the issue of statutory certificates and exemption certificates. They must act in accordance with the relevant provisions of IMO Resolution A.847;
- Member States may delegate the tasks listed above to recognised organisations;
- they must set out a 'working relationship' between their competent administration and the organisations acting on their behalf, which must be regulated by a formalised written and non-

discriminatory agreement setting out the specific duties and functions assumed by the organisations and including, inter alia, certain **specified provisions concerning financial liability**, and provisions for a **periodical audit** by the administration or by an impartial external body appointed by the administration into the duties the organisations are undertaking on its behalf;

- where a Member State considers that a recognised organisation can no longer be authorised to carry out on its behalf the tasks specified it may suspend or withdraw such authorisation;
- each Member State shall, at least on a biennial basis, monitor every recognised organisation acting on its behalf and provide other Member States and the Commission with a report at the latest by 31 March of the year following the year in which the monitoring was carried out;
- the Commission shall, on a biennial basis, inform the European Parliament and the Council of progress in the implementation of the Directive.

The recitals note that when a recognised organisation, its inspectors, or its technical staff issue the relevant certificates on behalf of the administration, Member States should consider enabling them, as regards these delegated activities, to be subject to proportionate legal safeguards and judicial protection, including the exercise of appropriate rights of defence, apart from immunity, which is a prerogative that can only be invoked by Member States as an inseparable right of sovereignty and therefore cannot be delegated.

The Directive focuses on the relationship between the Member States and the recognised organisations to which they delegate the inspection and certification of ships under international conventions, whereas the Regulation deals in full with the recognition system as a whole (including the granting of recognition, the recognition criteria, the recognised organisations' obligations as regards reporting and cooperation, the periodic assessment of recognised organisations, the correction of shortcomings and, finally, withdrawal of recognition).

This Directive is part of a series of measures, comprising the **third maritime package**, aiming to strengthen the security of maritime transport in Europe by improving accident prevention and investigations into accidents and by strengthening vessel quality control. (See also [COD/2005/0236](#), [COD/2005/0238](#), [COD/2005/0239](#), [COD/2005/0240](#), [COD/2005/0241](#) and [COD/2005/0242](#)).

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