Insurance of shipowners for maritime claims

2005/0242(COD) - 23/04/2009 - Final act

PURPOSE: to establish insurance requirements for shipowners.

LEGISLATIVE ACT: Directive 2009/20/EC of the European Parliament and of the Council on the insurance of shipowners for maritime claims

CONTENT: this Directive lays down rules applicable to certain aspects of the obligations on shipowners as regards their insurance for maritime claims. It applies to ships of 300 gross tonnage or more. However, it does not apply to warships, auxiliary warships or other State owned or operated ships used for a non commercial public service. It is also without prejudice to the regimes established by the instruments in force in Member State concerned and listed in the Annex, such as the International Convention on Civil Liability for Oil Pollution Damage, 1992.

The Directive provides that each Member State must require that shipowners of ships flying its flag have insurance covering such ships. Each Member State must require shipowners of ships flying a flag other than its own to have insurance in place when such ships enter a port under the Member State's jurisdiction. This shall not prevent Member States, if in conformity with international law, from requiring compliance with that obligation when such ships are operating in their territorial waters. The insurance must cover maritime claims subject to limitation under the 1976 Convention on Limitation of Liability for Maritime Claims, adopted by the International Maritime Organisation (IMO), as amended by the 1996 Protocol. The amount of the insurance for each and every ship per incident must be equal to the relevant maximum amount for the limitation of liability as laid down in the 1996 Convention.

The Directive notes that the obligation to have insurance should make it possible to ensure better protection for victims. It should also help to eliminate substandard ships and make it possible to re-establish competition between operators.

With regard to sanctions, Directive 2009/16/EC on port State control already provides for the detention of ships in the case of absence of certificates which have to be carried on board. However, this Directive also provides for the possibility of expelling a ship which does not carry a certificate of insurance. As a result of the issuing of such an expulsion order, every Member State will refuse entry of this ship into any of its ports until the shipowner notifies the insurance certificate.

Penalties: Member States shall lay down a system of penalties for the breach of national provisions adopted pursuant to the Directive and take all the measures necessary to ensure that those penalties are applied.

Reports: every 3 years, and for the first time before 1 January 2015, the Commission must present a report on the application of the Directive.

It should be noted that the Commission’s original proposal concerned the civil liability of shipowners. However, the final text approved by Parliament and Council concerned the obligation on shipowners to carry insurance covering possible maritime claims. The administrative costs for Member States have been reduced and a revised penalty system introduced.

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/2005/0237, COD/2005/0238, COD/2005/0239, COD/2005/0240 and COD/2005/0241).

ENTRY INTO FORCE: 29/05/2009.

TRANSPOSITION: 01/01/2012.