

Reporting formalities for ships arriving in and/or departing from ports of the Member States

2009/0005(COD) - 06/07/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 640 votes to 30, with 19 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission proposal as follows:

Subject matter and scope: the purpose of this Directive is to simplify and **harmonise** the administrative procedures applied to maritime transport by making the electronic transmission of information standard and by rationalising reporting formalities. This Directive shall apply to the reporting formalities applicable to maritime transport for ships arriving in and ships departing from ports situated in Member States. It shall not apply to ships exempted from reporting formalities.

Definition of "electronic transmission of data": an amendment defines more clearly this term to mean the process of transmitting information that has been encoded digitally, using a revisable structured format which can be used directly for storage and processing by computers.

Harmonisation and coordination of reporting formalities: each Member State shall take measures to ensure that the reporting formalities are requested in a harmonised and coordinated manner within that Member State. The Commission shall, in cooperation with the Member States, develop mechanisms for the harmonisation and coordination of reporting formalities within the Union.

Notification prior to entry into ports: subject to specific provisions on notification applicable under legally binding Union acts or under international legal instruments applicable to maritime transport and binding on the Member States, including provisions on control of persons and goods, Member States shall ensure that the master or any other person duly authorised by the operator of the ship provides notification, prior to entering a port situated in a Member State, of the information required under the reporting formalities to the relevant competent authority appointed by that Member State.

Electronic transmission of data: in order to streamline and accelerate the transmission of potentially very large amounts of information, electronic formats for reporting formalities should be used, whenever practicable. The compromise texts stipulates that Member States shall accept the fulfilment of reporting formalities in electronic format and their transmission via a single window as soon as possible and in any case no later than 1 June 2015. This **single window**, linking SafeSeaNet, e-Customs and other electronic systems, shall be the place through which, in accordance with this Directive, all information is reported once and made available to various competent authorities and the Member States.

Exchange of data: Member States shall ensure that information received in accordance with the reporting formalities provided in accordance with a legally binding Union act is made available in their national SafeSeaNet systems and shall make relevant parts of such information available to other Member States via the SafeSeaNet system. Unless otherwise provided by a Member State, this shall not apply to information received pursuant to the provisions of Regulation (EEC) No 2913/92 (Community Customs Code), Regulation (EEC) No 2454/93, Regulation (EC) No 450/2008 (Modernised Customs Code), and

Regulation (EC) No 562/2006 (Schengen Borders Code). Member States shall ensure that the information is accessible, upon request, to the relevant national authorities. The underlying digital format of the messages to be used within national SafeSeaNet systems shall be established following the provisions of Article 22a of Directive 2002/59/EC.

Member States may provide relevant access to the information either through a national single window via an electronic data exchange system or through the national SafeSeaNet systems.

Electronic transmission of data: Member States shall accept the fulfilment of reporting formalities in electronic format and their transmission via a single window as soon as possible and in any case no later than 1 June 2015. A recital states that within the EU, the provision of information in FAL forms in paper format should be the exception and should be accepted only for ships not flying the flag of a Member State and for a limited period of time, taking into account the Member States' obligations as contracting parties to the FAL Convention.

Confidentiality: Member States shall, in accordance with legally binding Union acts or national legislation, take the necessary measures to ensure the confidentiality of commercial and other confidential information exchanged in accordance with this Directive. They shall take particular care to protect commercial data collected under this Directive. In respect of personal data, the Member States shall ensure they comply with Directive 95/46/EC.

Exemptions: Member States shall ensure that ships falling within the scope of Directive 2002/59/EC and moving between ports situated in the European Union's customs territory, but which do not come from, call in or are headed towards a port situated outside that territory or a free zone subject to type I controls under customs legislation are exempt from the obligation to send the information referred to in the FAL forms, without prejudice to the applicable Union legislation and the possibility that Member States may request information in the FAL forms referred to in points B.1, B.2, B.3, B.4, B.5 and B.6 of the Annex necessary to protect internal order and security and to enforce customs, fiscal, immigration, environmental or sanitary laws.

Amendment procedure: the Commission may adopt **delegated acts**, in accordance with Article 290 of the Treaty on the Functioning of the European Union, as regards the Annex to this Directive, so as to ensure that account is taken of any relevant changes to the FAL forms introduced by the IMO. These amendments shall not have the effect of widening the scope of the Directive.

Report: at the latest 18 months after the date of transposition, the Commission shall present a report on the functioning of this Directive, including on the:

- possibility of extending the simplification introduced by this Directive to cover inland waterway transport;
- compatibility of the River Information Services (RIS) with the electronic data transmission process referred to in this Directive;
- progress towards harmonisation and coordination of reporting formalities that has been achieved under this Directive;
- feasibility of avoiding or simplifying formalities for ships that have called at a port in a third country or free zone;
- available data concerning ship traffic/movement within the Union, and/or calling at third country ports or in free zones.