Maritime safety: minimum level of training of seafarers

2011/0239(COD) - 21/11/2012 - Final act

PURPOSE: to align the current rules of the Union on the training of seafarers with international rules on the training and certification of the latter.

LEGISLATIVE ACT: Directive 2012/35/EU of the European Parliament and of the Council amending Directive 2008/106/EC on the minimum level of training of seafarers

CONTENT: the Council adopted a directive defining the minimum level of training for seafarers following the approval by the European Parliament of the agreement reached in the negotiations between the two institutions.

The directive **aims to align EU legislation with recent amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention).** It updates the 2008 Directive on training for seafarers, which provides for the transposition of the STCW into EU law.

The amendments to the STCW Convention agreed by the International Maritime Organisation (IMO) in 2010 concern in particular:

- the standards for medical fitness and fitness for duty;
- the establishment of new professional profiles;
- security-related training;
- the definition of certificates; and
- the prevention of fraudulent practices relating to certificates.

The new Directive incorporates these amendments into EU law, while adapting the provisions of the STCW Convention on watchkeeping in order to **bring them into line with EU rules on working time for seafarers.**

Training: Member States must take the necessary measures to ensure that seafarers serving on ships are trained as a minimum in accordance with the requirements of the STCW Convention.

Certificates of competency, certificates of proficiency and endorsements: the text stipulates that Candidates for certification shall provide satisfactory proof:

- of their identity;
- that their age is not less than that prescribed in the Regulations listed in Annex I relevant to the certificate of competency or certificate of proficiency applied for;
- that they meet the standards of medical fitness, specified in Section A-I/9 of the STCW Code;

- that they have completed the seagoing service and any related compulsory training prescribed in the Regulations listed in Annex I for the certificate of competency or certificate of proficiency applied for; and

- that they meet the standards of competence prescribed in the Regulations listed in Annex I for the capacities, functions and levels that are to be identified in the endorsement of the certificate of competency.

Each Member State shall undertake:

- to maintain a register or registers of all certificates of competency and certificates of proficiency and endorsements for masters and officers and, where applicable, ratings which are issued, have expired or have been revalidated, suspended, cancelled or reported as lost or destroyed, as well as of dispensations issued;

- to make available information on the status of certificates of competency, endorsements and dispensations to other Member States or other Parties to the STCW Convention and companies which request verification of the authenticity and validity of certificates. As of 1 January 2017, the information required shall be made available by electronic means.

Information to the Commission: each Member State shall make available to the Commission on a yearly basis the information indicated in Annex V to this Directive on certificates of competency, and endorsements attesting the recognition of certificates of competency, for the purposes of statistical analysis only and exclusively for use by Member States and the Commission in policy-making.

Prevention of fraud and other unlawful practices: Member States shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving certificates and endorsements issued, and shall provide for **penalties** that are effective, proportionate and dissuasive.

Medical standards: each Member State shall establish standards of medical fitness for seafarers and procedures for the issue of a medical certificate in accordance with the Directive and Section A-I/9 of the STCW Code. They shall ensure that those responsible for assessing the medical fitness of seafarers **are medical practitioners recognised** by that Member State for the purpose of seafarer medical examinations.

Fitness for duty: for the purpose of preventing fatigue, Member States shall establish and enforce **rest periods** for watchkeeping personnel and those whose duties involve designated safety, security and prevention of pollution duties.

All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch, and those whose duties involve designated safety, prevention of pollution and security duties shall be provided with a rest period of **not less than:**

- **a minimum of 10 hours of rest in any 24-hour period; and**

- **77 hours in any seven-day period.**

The requirements for rest periods need not be maintained in the case of an emergency or in other overriding operational conditions. **Musters, fire fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments**, shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

In this connection, it is recalled that Parliament wanted provisions on rest periods to apply also to operational exercises.

With due regard for the general principles of the protection of the health and safety of workers and in line with Directive 1999/63/EC (which implements an agreement between the social partners) Member States may, by means of national laws, regulations or a procedure for the competent authority, authorise or register collective agreements permitting exceptions to the required hours of rest provided that the rest period is no less than 70 hours in any seven-day period and respects the limits set out in the Directive.

Recognition of certificates of competency and certificates of proficiency: the Directive extends the timeframe available to the Commission for deciding on the recognition of the training and certification systems of non-EU countries **from three to eighteen months**, as the three-month deadline has proved impracticable

Statistical information: the new Directive also provides for the collection of information on seafarers' certificates for statistical purposes, as a tool for policymaking in this sector. As requested by Parliament, the Directive:

- requires the Commission to use the information communicated to it by Member States **for the purposes of statistical analysis only** and in accordance with Union requirements regarding data protection;.

- guarantees that processed statistics drawn up on the basis of such information are made **publicly available**;

- strengthens the requirement to communicate **anonymised data** only in order to respect data protection in the context of the gathering of statistics on seafarers.

ENTRY INTO FORCE: 03/01/2013.

TRANSPOSITION: 04/07/2014 and 04/01/2015 (regarding information to the Commission).

DELEGATED ACTS: the Commission is empowered to adopt delegated acts in order to gather data on the seafaring profession in line with its evolution and with that of technology. The delegation of power shall be conferred on the Commission for a **period of five years from 3 January 2013** (which may be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension.) A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two months** of notification of that act. That period shall be extended by two months at the initiative of the European Parliament or the Council.