

Port State control: aligning the Directive to the Maritime Labour Convention requirements

2012/0062(COD) - 12/08/2013 - Final act

PURPOSE: to amend Directive 2009/16/EC on port State control in order to align it to the requirements of the Maritime Labour Convention adopted in 2006.

LEGISLATIVE ACT: Directive 2013/38/EU of the European Parliament and of the Council amending Directive 2009/16/EC on port State control.

CONTENT: the Directive defines the responsibilities of States performing port State control obligations in respect of the implementation of the Maritime Labour Convention adopted in 2006 by the International Labour Organisation (ILO).

On 23 February 2006, the International Labour Organisation (ILO) adopted the Maritime Labour Convention, 2006 (MLC 2006), desiring to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour conventions.

MLC 2006 sets out maritime labour standards for all seafarers regardless of their nationality and of the flag of the ships on which they serve.

The main amendments made to Directive 2009/16/EC concern in particular:

- The **inclusion of new documents** to be checked, namely the "maritime labour certificate" and the "declaration of maritime labour compliance".
- **The extension of inspections** to cover other requirements of the Maritime Labour Convention. The text states that when inspecting a ship flying the flag of a State which is not a party to a Convention, Member States must ensure that the treatment of that ship and its crew is not more favourable than that of a ship flying the flag of a State party to that Convention. Such ship shall be subject to a more detailed inspection in accordance with procedures established by the Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982 (Paris MOU).
- **Handling of complaints:** a complaint by a seafarer alleging a breach of the requirements of MLC 2006 (including seafarers' rights) may be reported to an inspector in the port at which the seafarer's ship has called. In such cases, the inspector shall undertake an initial investigation. The directive strengthens the clauses on the confidentiality of complaints so as to reduce the risk that seafarers may feel inhibited about lodging complaints for fear of subsequently suffering adverse consequences. The identity of the complainant must not be revealed to the master or the shipowner of the ship concerned.
- **The inclusion of a serious or repeated breach of the Maritime Labour Convention as a reason detaining a ship:** the detention order or stoppage of an operation shall not be lifted until those deficiencies have been rectified or if the competent authority has accepted a plan of action to rectify those deficiencies.

The measures adopted to give effect to the Directive must under no circumstances constitute grounds justifying a reduction by Member States in the general level of protection of seafarers on board ships flying the flag of a Member State under the applicable Union social law.

ENTRY INTO FORCE: 20/08/2013, the date of entry into force of the MLC 2006.

TRANSPOSITION: 21/11/2014.

DELEGATED ACTS: the Commission may adopt delegated acts in order to allow the Commission to update the relevant procedures swiftly. The power to adopt delegated acts is conferred on the Commission for a period of **five years (renewable) from 20 August 2013**. The European Parliament or Council may object to a delegated act within a period of two months from the date of notification (this period may be extended by two months). If either Parliament or council express objections, the delegated act will not enter into force.