Maritime safety: discharge by the Member States of their obligations as flag States in accordance with the IMO Conventions

2005/0236(COD) - 18/12/2013 - Follow-up document

The Commission presents a report on the application of Directive 2009/21/EC on compliance with flag State requirements.

The report notes that the majority of Member States currently comply with the requirements set out in Directive 2009/21/EC and the Commission encourages Member States to ensure that this level of commitment will be maintained and further progress achieved.

The main findings of the report concern the assessment of the performance of Member States as flag states:

Transparency in the transfer of a ship flying a Member State flag: the Directive's requirement for readily accessible information and transparency of data on the performance of ships under Member State flags is largely applied and can help in facilitating the transfer of ships between registers. Any potential weaknesses in the fleet are also more easily exposed and the need for corrective action identified.

Flag State auditing process: the Commission sees any identification of non-conformities or observations as a means to improvement, so that Member State administrations are in a better position to discharge their responsibilities as flag States, particularly in relation to maritime safety and environmental protection. Member States have used the corrective action plan drawn up following the audit to improve their operation as flag states.

Of those Member States which have not undergone an IMO audit, only Portugal has an active register. The Commission will actively pursue Portugal to subscribe to Voluntary IMO Member State Audit Scheme (VIMSAS).

Certified Quality Management System: the requirement for a certified Quality Management System may also provide an opportunity for flag management rationalisation and better use of human resources. This requirement provides another independent quality check on the systems and procedures used by Member States when operating as flag States. Concrete improvements have been notified.

For six Member States, external certification confirmed the quality management system already in place. For several Member States external certification is expected shortly, while for Ireland and Portugal this is a pending issue, and the Commission will actively pursue the Member States concerned.

External certification of all EU maritime administrations for all relevant international conventions is therefore still outstanding and the Commission will take action to ensure this is rectified.

Black and Grey lists: for the final period reported in 2013, namely 2010-2012, out of the original 7 Member States or candidate countries (Austria, Lithuania, Latvia, Poland and Slovakia, plus Bulgaria and Romania) noted as having a significant number of non-compliant ships on their register, none are now on the black list and only 2 remain on the grey list (Bulgaria and Slovakia).

Indeed 6 out of the top 10 flag states on the latest white list are EU Member States, with 15 being in the top 30 flag states. The Commission will continue to monitor progress of the two remaining EU Member States still on the grey list.

Ratification of International Conventions: Member States have generally been true to their commitments to consent to be bound by the Conventions contained in their declaration, with only two landlocked Member States not seeming to take active steps to ratify the Protocols of certain Conventions (SOLAS, Load Lines) dating back to 1988. Progress has been made as regards the Nairobi Wreck Removal Convention 2007 and the Hazardous and Noxious Substances (HNS) Convention 1996 and its 2010 Protocol. The Maritime Labour Convention (MLC) 2006 has already been ratified by 14 Member States and all remaining Member States are expected to swiftly follow suite.

The uptake in ratifications and preparations to ratify is an encouraging development, although Member States should recognise that the deadlines to which they committed themselves in 2009 have now passed and redouble their efforts to make good their declaration. An incentive to do so may be required.

The majority of Member States currently comply with the requirements set out in Directive 2009/21/EC and the Commission encourages Member States to ensure that this level of commitment will be maintained and further progress achieved.

At the time of adoption of Directive 2009/21/EC, the Commission regretted that its original proposal for compliance with flag state requirements had not been taken up by Member States. Should circumstances warrant it in the future, the **Commission may consider the merits of proposing further measures** to ensure Member States continue to effectively and consistently discharge their obligations as flag States. With this in mind, the Commission would therefore encourage Member States to continue their work in fully complying with the current directive.