Insurance of shipowners for maritime claims

2005/0242(COD) - 29/03/2016 - Follow-up document

The Commission adopted a report on the application of Directive 2009/20/EC on the insurance of ship-owners for maritime claims.

To recall, the Directive entered into force on 29 May 2009. It aims to encourage responsible behaviour by all economic operators, to improve the quality of merchant shipping and ensure safety at sea.

The Directive makes compulsory in the EU the requirement for ship-owners to have adequate insurance covering their ships. This requirement is combined with the principle of limitation of liability in accordance with the 1996 Protocol to the 1976 Convention on Limitation of Liability for Maritime Claims ('LLMC 1996').

The report relies on the outcome of a survey undertaken by the European Maritime Safety Agency (EMSA) at the request of the European Commission on the application of the Directive, as well as on information and **data retrieved from the inspection database (commonly known as 'THETIS')** established in accordance with Directive 2009/16/EC on port State control as amended.

The main conclusion of the report is that the Directive which has been in force for approximately four years and it **appears to be working well** in pursuing its objectives.

EU Flag State Implementation: as compliance records show based on the information available, **the vast majority of ships flying EU flags or entering EU ports have adequate insurance** in line with the Directive.

Reports from Member States in THETIS on the outcome of Port State Control inspections on ships flying a flag of another EU Member State indicate that, as regards ships flying EU flags, **13 cases of non-compliance** related to insurance certificates have been identified between July 2013 and end September 2015. When comparing this to the total number of 45 cases of noncompliance related to insurance certificates on ships recorded in THETIS during the same period, it can be concluded that ships flying an EU flag represent nearly one third (29 %) of the total of the non-compliance cases.

The report highlighted that the percentage of non-compliant ships flying an EU flag in relation to the total number of Port State Control inspections of such ships is **very low, i.e. 0.1 %**. Moreover, the non-compliance percentage of EU flagged ships is lower compared to non-EU flagged ships (respectively 0.1 % compared to 0.15 % for non-EU ships). According to the report, no Member State has reported to have imposed any **penalty** on a ship flying its flag for lack of adequate insurance cover under the Directive.

Port State Control: since the specialised module on THETIS (THETIS-I) has become operational on 1 July 2013 and until September 2015, **34 944 inspections** in total have been recorded. Port State Control enforcement has identified a total of 45 deficiencies under the Directive as depicted in Annex B of this report. When compared to the total of 34 944 inspections, 45 deficiencies give a **99.87 % compliance rate** , which is significantly high.

Taking account of the findings, the Commission considered that the system established under the Directive, thus, gives **reasonable assurance** that, should an incident involving such a ship result in a third party loss, and consequently give rise to maritime claims as defined in LLMC 1996, victims will be able to receive compensation from the ship-owner and his insurer, up to the amount of the relevant liability limit.

Some issues of implementation and enforcement of the obligations under the Directive, as outlined in the present report, could be **further improved through enhanced use of the existing operational information and exchange systems** to achieve a more uniform application of the Directive, both from a flag State and port State point of view.