

# Establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

2023/0164(COD) - 01/06/2023 - Legislative proposal

**PURPOSE:** to amend Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** Directive 2009/18/EC provides for a system of safety investigations to learn lessons from maritime accidents and to prevent their reoccurrence. Maritime accidents falling within the scope of the Directive are investigated to improve maritime safety and to protect the marine environment.

Since the entry into force of Directive 2009/18/EC, there have been changes in the international regulatory environment and technological developments. In addition to the need to update the Directive to take account of legal, environmental and technological developments since its adoption, it is also necessary to take into account the lessons learned from the implementation of the Directive.

The Commission carried out an ex-post evaluation and quality assessment of maritime transport in 2018. The Commission concluded that, **although the Directive has largely achieved its objectives and presented EU added value, it needs to be updated** and requires some improvements. The current EU regulatory framework needs to be updated in order to: (i) maintain EU rules where necessary and proportionate; (ii) ensure their correct implementation; and (iii) eliminate any potential overlap of obligations and inconsistencies between related pieces of legislation.

This initiative is part of a package to modernise EU rules on maritime safety.

**CONTENT:** the main changes to the Directive concern the following:

## ***Compliance with IMO Casualty Investigation Code***

It is proposed to update a number of definitions and references to relevant EU legislation and International Maritime Organisation (IMO) regulations in the interests of clarity and consistency.

## ***Purpose and scope***

The scope of the Directive would be partially extended to all fishing vessels, **including those less than 15 metres in length**. Small fishing vessels of less than 15 metres in length are not included in the current scope of the Directive, which means that accidents involving loss of life and loss of vessels are not systematically investigated throughout the European Union.

## ***Definitions***

The proposal updates a number of definitions that have been problematic or that refer to outdated EU legislation. References to 'ro-ro passenger ships' and 'high-speed passenger craft' are updated to take account of changes to EU legislation. The length of a fishing vessel is clarified as the overall length. The issue of non-fatal injuries that result in death some time after the maritime event that caused them is also addressed.

In order to provide clear guidance as to when an investigation should be initiated and thus ensure a harmonised approach across the Union, the Directive is amended to include a specific time limit (i.e. 30 days after the accident, as for other modes of transport).

### ***Obligation to investigate and investigation Authorities***

The proposal makes changes to the obligation to investigate and provides that, in relation to a very serious marine casualty (loss of the vessel and/or a fatality) involving a fishing vessel of less than 15 metres in length, Member States are obliged to **at least carry out a preliminary assessment** to determine if a safety investigation should be carried out.

It is also proposed that Member States should establish a quality management system (QMS) for their marine safety investigation Authority. This measure should improve the quality of the accident investigations, the management of available resources having regard to the workload and especially the reports written.

### ***European database for marine casualties***

Two changes have been made to the reporting obligations of Member States as regards the European Maritime Casualty Information Platform (EMCIP): (1) the Directive specifies their obligations regarding very serious marine casualties involving fishing vessels of less than 15 metres in length; (2) the Directive is adapted so that all marine casualties and incidents other than very serious marine casualties can be notified to EMCIP by a duly designated competent authority of a Member State other than the marine safety investigation Authority.

In addition, EMSA and the Commission should be able to input data to the EMCIP database.

### ***Support and training by EMSA***

The proposal sets out the possibilities for EMSA to provide support to the EU Member States investigation authorities to better discharge their responsibilities under the Directive. Many accident investigation bodies lack sufficient resources to have an expert on every specialised discipline. On the basis of this provision EMSA could

- make available a pool of experts of different disciplines who could be of service to any requesting investigation authority;
- provide specialised tools and equipment, which can be lent or provided to the investigation authorities;
- take a role in raising awareness of developments, disseminating information, and organising discussions and training courses on subjects such as renewable and low carbon fuels, new digital technologies and relevant developments at the IMO level;
- provide dedicated training on the use of **investigative technologies**, equipment and on new technologies relating to the developments in maritime transport.

### ***Budgetary implications***

The estimated additional annual costs for the EU budget amount to around EUR 1.88 million per annum in 2030 and EUR 1.93 million per annum in 2050.