

Port State control

2023/0165(COD) - 01/06/2023 - Legislative proposal

PURPOSE: to update certain provisions of Directive 2009/16/EC on port State control.

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 2009/16/EC regulates port State control inspections at EU level. Port State control (PSC) is a system of inspection of foreign ships in ports of states other than the flag state by PSC officers to verify that the competency of the master, officers and crew on board, the condition of a ship, and its equipment comply with the requirements of international conventions – and in the European Union, with applicable EU law.

Since the Directive 2009/16/EC entered into force, there have been changes in the international regulatory environment (in particular in the Paris MOU and the International Maritime Organisation) and technological developments. Those changes as well as the experience gained from implementation of Directive 2009/16/EC should be taken into account.

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

CONTENT: in the light of this, the Commission has prepared a proposal to amend Directive 2009/16/EC. It aims to **update and align EU legislation with international rules and procedures**, set by the IMO /ILO or the Paris MOU.

Purpose, definition and scope

The scope of the Directive is partially extended to bring a number of international conventions within the scope of port State control inspections. These are the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) and the International Convention on the Removal of Wrecks (Nairobi) both of which are in force and have been adopted as relevant instruments by the Paris MOU.

The scope is also amended so that fishing vessels of above **24 metres in length** can be inspected under PSC by those Member States who wish to carry out these inspections. A **voluntary system of control** for this type of vessel should increase the level of compliance with international standards of safety and environmental protection applicable to these vessels.

Ship risk profile

The proposal also updates the way in which ships are targeted for inspection to take account of the new requirements and will attach greater importance to the environmental performance and deficiencies of ships in determining their risk profile. The proposal defines the environmental parameters that will be taken into account to establish the ship risk profile used to target ships for inspection.

Force majeure situations

The proposal addresses the issue of lack of flexibility of the PSC regime in cases of crisis or unexpected events, such as the COVID-19 pandemic. In order to make the regime more resilient, a more flexible measure is introduced allowing Member States to miss inspections in cases of force majeure, provided that the missed inspection is recorded and the reason for missing the inspection is documented.

Pre-arrival notification

The amendments intend to align the Directive to the Paris MOU changes abolishing the 72-hour reporting obligation for vessels eligible for an expanded inspection.

Expanded inspections

Due to their complexity, it is proposed that expanded inspections should be carried out by more than one port State control officer.

Refusal of access

The Directive is amended to align it to the changes adopted by the Paris MOU relating to the refusal of access (banning) procedure and the possibility to ban vessels which are on the grey or white lists of the Paris MOU (flag-blind banning) as well as provision related to jumped detention or when the detained vessel does not proceed to an agreed repair yard.

EMSA training

The proposal sets out the possibilities for EMSA to provide training to the EU Member States to better fulfil their responsibilities under the Directive, given the widened scope of PSC and improvements in the scope and type of training. A new professional development and training programme for inspectors should be developed, to be made up of a (i) syllabus of competence and a (ii) professional development scheme. Once these aspects are in place, the Agency should identify and provide new training needs to amend the curricula, syllabi and content of the professional development and training program for inspectors, especially as regards new technologies and in relation to the additional obligations arising from new IMO conventions.

Electronic certificates

The use of electronic certificates should be encouraged. These would rely on a common template, use a common validation tool and repository at EU level, which would link the use of electronic certificates with the ship risk profile.

Implementation review

The proposal provides that the Commission will produce a review of the implementation of the amended Directive 10 years after adoption. This takes account of the time necessary for transposition and the fact that an EMSA review cycle of visits to Member States typically takes no less than 5 years.

Budgetary implications

The proposal gives rise to net present costs for the Union Budget of EUR 6.479 million over the period 2025-2050.