

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

2023/0164(COD) - 10/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 353 votes to 214, with 55 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector.

The position adopted by the European Parliament at first reading under the ordinary legislative procedure is as follows:

## ***Objective***

The proposed directive aims to establish **rules governing marine safety investigations** pursuant to this Directive is not to determine liability or apportion blame, no fault or liability should be inferred from the findings of those investigations. Member States should ensure that the marine safety investigation authorities are not prevented or hindered from fully reporting the causes of a marine casualty or incident.

## ***Obligation to investigate***

In the case of a fishing vessel of less than 15 metres in length, the investigation authority should without delay and **no later than two months after the very serious marine casualty**, carry out a preliminary assessment to determine whether to conduct a safety investigation. Where the investigation authority decides not to conduct such a safety investigation, the reasons for that decision should without delay and no later than two months after the very serious marine casualty be recorded and notified.

When deciding whether a marine casualty or incident occurring alongside, moored or in dock, involving shore or port workers, occurred “directly in connection with the operations of a ship” and, therefore, is subject to a safety investigation, Member States should, in accordance with their national law, give particular consideration to the involvement of the ship’s structure, equipment, procedures, crew and ship management in and their relevance to the activity being undertaken.

## ***Ro-ro passenger ship or high-speed passenger craft***

The amended text stipulated that when a ro-ro passenger ship or high-speed passenger craft is involved in a marine casualty or incident, the safety investigation procedure should be launched by the Member State in whose territorial sea or internal waters, as defined in UNCLOS, the marine casualty or incident occurs.

If the marine casualty or incident occurs in other waters, the safety investigation procedure should be launched by the last Member State visited by that ro-ro passenger ship or high-speed passenger craft. The Member State that launched the safety investigation procedure should remain responsible for the safety investigation and for the coordination with other substantially interested Member States until it is mutually agreed which of those Member States is to be the lead investigating Member State.

## ***Marine safety investigation authority***

Member States should ensure that safety investigations are conducted under the responsibility of an impartial, independent and permanent safety investigation authority, endowed with the necessary powers and with sufficient means and financial resources, and with suitably qualified investigators, competent in matters relating to marine casualties and incidents.

Each Member State may develop, implement and maintain a quality management system for its safety investigation authority.

The permanent cooperation framework should support investigation authorities and enhance their safety investigation capabilities by drawing up guidance and recommendations to ensure that safety investigations are conducted in a consistent manner, and should in this regard develop and implement a peer review programme.

### ***Confidentiality***

A Member State, acting in the framework of its legal system, should ensure that the following records are not made available for purposes other than the safety investigation, unless that Member State's competent authority concludes that there is an overriding public interest in the disclosure of those records.

It concerns, *inter alia*, all statements taken from persons by the safety investigation authority in the course of the safety investigation; records revealing the identity of persons who have given evidence in the context of the safety investigation; information collected by the safety investigation authority that is of a particularly sensitive and personal nature, including information concerning the health of individuals or information and evidence provided by safety investigators from other Member States or third countries.

### ***Investigation led by a third country***

Where a substantially interested third country is leading a safety investigation involving one or more Member States, those Member States may decide not to conduct a parallel safety investigation, provided that the safety investigation led by the third country is conducted in accordance with the IMO Casualty Investigation Code.

### ***Delegated acts***

In order to adapt Directive 2009/18/EC to the evolution of international maritime law related to the investigation of accidents in the maritime transport sector, and to facilitate the gathering, sharing and reporting of knowledge, the Commission could adopt delegated acts in respect of amending the Annexes to this Directive.

### ***Review***

The Commission should by **90 months** from the date of entry into force of this amending Directive submit a report to the European Parliament and to the Council on the implementation of, and compliance with, this Directive, and, if necessary, should propose further measures in the light of the recommendations set out therein, including considering the possibility of including mandatory safety investigation for fishing vessels of less than 15 meters in length in the scope of this Directive and the impact thereof on the workload of the safety investigation authorities.