

Port State control

2023/0165(COD) - 10/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 593 votes to 3, with 28 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control.

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

Scope

The amended text stipulated that when inspecting a ship flying the flag of a State which is not a party to a Convention, Member States should ensure that the treatment of that ship and its crew is not more favourable than that of a ship flying the flag of a State party to that Convention. Such a ship should be subject to a more detailed inspection in accordance with procedures established by the Paris MOU.

However, a ship flying the flag of a State which is not a party to the CLC 92, the Bunkers Convention, 2001, and the Nairobi Convention is not automatically subject to a more detailed inspection, if the ship has the required certificate from a State which is a party to those conventions and the inspector performing the inspection deems a more detailed inspection unnecessary. This decision and the reasons therefore should be recorded in the inspection database.

Fishing vessels of less than 24 meters in length, warships, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade should be excluded from the scope of this Directive. For the purposes of this Directive, a fishing vessel's length should be defined in accordance with the Cape Town Agreement.

Modalities allowing a balanced inspection share within the Union

A Member State in which the total number of calls of Priority I ships exceeds its inspection share should be regarded as complying with such commitment, if a number of inspections carried out by that Member State corresponds at least to such an inspection share and if that Member State does not miss more than 40 % of the total number of Priority I ships calling at its ports and anchorages.

Postponing inspections and exceptional circumstances

A Member State may decide to postpone the inspection of a Priority I or Priority II ship in the following circumstances:

- if the inspection may be carried out at any subsequent call of the ship in the same Member State, provided that the ship does not call at any other port in the Union or the Paris MOU region in between, except any ports of the ship's flag State, and the postponement is not more than 15 days from the actual time of departure; or
- if the inspection may be carried out in another port of call within the Union or the Paris MOU region within 15 days from the actual time of departure.

If an inspection is not performed on a ship at anchorage, it should **not be counted as a missed inspection if:**

- the ship is inspected in another port or anchorage within the Union or the Paris MOU region in accordance with Annex I within 15 days; or
- the ship call takes place only during night time or its duration is too short for the inspection to be carried out satisfactorily, and the reason for missing the inspection is recorded in the inspection database; or
- in the judgement of the competent authority, the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port, or to the marine environment, and the reason for missing the inspection is recorded in the inspection database.

If an inspection is not performed due to **extraordinary and unforeseen circumstances** rendering the carrying out of an inspection impossible, such as natural disasters, pandemics or public health emergencies or terrorist attacks, it should not be counted as a missed inspection. Those circumstances should be duly justified and reported to the Commission.

Expanded inspections

The following categories of ships are eligible for an expanded inspection:

- ships with a high risk profile;
- passenger ships, oil tankers, gas, noxious liquid substances (NLS) or chemical tankers or bulk carriers, older than 12 years of age;
- ships with a high risk profile or passenger ships, oil tankers, gas, NLS or chemical tankers or bulk carriers, older than 12 years of age, in cases of overriding or unexpected factors;
- ships subject to the inspection following a refusal of access order.

Measures to refuse access to certain vessels

A ship flying the flag of a State that appears on the high performance list and which is detained in a port or anchorage of the Union at the time of its first inspection in the Union after the third or any subsequent refusal of access, should:

- be refused to access any Union port or anchorage for a period of **24 months**, if the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009;
- be **permanently refused access** to any Union port or anchorage if the statutory or classification certificates of the ship are not issued by an organisation or organisations recognised under Regulation (EC) No 391/2009.

Refusal of access periods for multiple detentions will be extended by 12 months in certain cases.

The owner or operator of a ship or their representative in the Member State should have a **right of appeal** against any detention or refusal of access by the competent authority. An appeal should not cause the detention or refusal of access to be suspended.

The Commission should, by five years from the date of transposition of this amending Directive, submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive. The following evaluation should take place five years after the first.