

# Investigation of accidents in the maritime transport sector

2005/0240(COD) - 23/11/2005 - Legislative proposal

**PURPOSE** : to establish the basic principles which Member States should follow for technical investigations following maritime incidents and amending Directives 1999/35/EC and 2002/59/EC  
**PROPOSED ACT** : Directive of the European Parliament and of the Council.

**CONTENT** : the difficulties encountered when investigating the sinking of the Erika and the Prestige oil tankers revealed the lack of clear guidelines at European level on how to carry out technical investigations and provide feedback to prevent the risk of serious maritime accidents. This represents a major gap which has been found in the EU's maritime safety legislation. The biggest concern in the international maritime sector is still the inability of some flag States to carry out investigations directly following maritime incidents. The States under whose flags most accidents happen seem to be those which carry out proportionally fewest investigations or at any rate which disseminate the least information about the findings of their investigations and draw fewest concrete conclusions from them, and the competent international bodies do nothing about this.

The main points of the proposal are as follows:

- the general objective of the proposal is to improve maritime safety and prevent future disasters. As in the aviation sector, the aim of technical investigations in the maritime area is not to determine, and far less to apportion civil or criminal liability, but to establish the circumstances and to research the causes of maritime incidents in order to draw all possible lessons from them and thereby improve maritime safety;
- the proposal was drawn up in compliance with the rules of international maritime law and in accordance with the definitions and recommendations in the IMO Code for the Investigation of Marine Accidents. It introduces into Community law the obligation for Member States to carry out technical investigations after maritime accidents and the obligation to report. The requires that a Member State's investigative body be notified without delay, by the responsible authorities and/or by the parties involved, of the occurrence of all casualties, incidents and distress alerts falling within the scope of the Directive;
- the proposal gives a status to technical investigations in the maritime area by expanding or creating specialised bodies. Member States must ensure that marine casualty or incident safety investigations are conducted under the responsibility of an impartial permanent investigative body or entity, to be known as 'the investigative body';
- the rules to be established by the Member States must include provisions for allowing cooperation and mutual assistance in marine casualty led by other Member States and coordination, in close cooperation with the Commission, of the activities of their respective investigative bodies.
- technical investigators will have investigative powers over third parties;
- there is a provision on provision on cooperation between Member States and third countries;

- Member States, in close cooperation with the Commission, must establish a permanent cooperation framework enabling their respective marine casualty or incident safety investigative bodies to cooperate among themselves and with the Commission to the extent necessary to attain the objectives of the Directive;

- the proposal also aims to ensure that evidence is preserved and to develop procedures for protecting, safeguarding and compiling the investigation reports and providing feedback;

Lastly, the proposal takes account of the role the European Maritime Safety Agency will play in this area in accordance with the provisions of Regulation 1406/2002/EC.

#### **FINANCIAL IMPLICATIONS :**

The amount of administrative expenditure not included in the reference amount and the cost of human resources amounts to EUR 324 000 over six years (EUR 54 000 per annum for an official working part time).