Basic information

2023/0165(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Port State control Amending Directive 2009/16 2005/0238(COD) **Subject** 3.20.03.01 Maritime safety 3.20.09 Ports policy 3.20.15.06 Maritime or inland transport agreements and cooperation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	TAX Vera (S&D)	13/07/2023
	Shadow rapporteur NOVAK Ljudmila (EPP) KARLESKIND Pierre (Renew) CORRAO Ignazio (Greens/EFA) VAN OVERTVELDT Johan (ECR) DALY Clare (The Left)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
PECH Fisheries	BILBAO BARANDICA Izaskun (Renew)	18/07/2023

Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Agriculture and Fisheries	4057	2024-11-18

European Commission	**Commission DG**	**Commissioner**
	Mobility and Transport	VĂLEAN Adina

European Economic and Social Committee
European Committee of the Regions

Key events

Date	Event	Reference	Summary
01/06/2023	Legislative proposal published	COM(2023)0271	Summary
10/07/2023	Committee referral announced in Parliament, 1st reading		
07/12/2023	Vote in committee, 1st reading		
07/12/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
08/12/2023	Committee report tabled for plenary, 1st reading	A9-0419/2023	Summary
11/12/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
13/12/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
20/03/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE759.995 GEDA/A/(2024)001593	
10/04/2024	Decision by Parliament, 1st reading	T9-0201/2024	Summary
10/04/2024	Results of vote in Parliament		
18/11/2024	Act adopted by Council after Parliament's 1st reading		
27/11/2024	Final act signed		
16/12/2024	Final act published in Official Journal		

Technical information

Procedure reference	2023/0165(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2009/16 2005/0238(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 100-p2
Other legal basis	Rules of Procedure EP 165

Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/9/12166

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE752.958	19/09/2023	
Amendments tabled in committee		PE754.725	12/10/2023	
Committee opinion	PECH	PE753.475	29/11/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0419/2023	08/12/2023	Summary
Text agreed during interinstitutional negotiations		PE759.995	15/03/2024	
Text adopted by Parliament, 1st reading/single reading		T9-0201/2024	10/04/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)001593	15/03/2024	
Draft final act	00086/2024/LEX	27/11/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2023)0271	01/06/2023	Summary
Document attached to the procedure	SEC(2023)0202	01/06/2023	
Document attached to the procedure	SWD(2023)0148	01/06/2023	
Document attached to the procedure	SWD(2023)0149	01/06/2023	
Commission response to text adopted in plenary	SP(2024)377	29/07/2024	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES2988/2023	20/09/2023	

Additional information		
Source	**Document**	**Date**
EP Research Service	Briefing	12/01/2024
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency

Name	Role	Committee	Date	Interest representatives
TAX Vera	Rapporteur	TRAN	20/09/2023	ECSA
TAX Vera	Rapporteur	TRAN	19/09/2023	WSC
KARLESKIND Pierre	Shadow rapporteur	TRAN	19/09/2023	Eurotunnel
TAX Vera	Rapporteur	TRAN	18/09/2023	T&E
TAX Vera	Rapporteur	TRAN	12/09/2023	Dutch Permanent Representation
TAX Vera	Rapporteur	TRAN	07/09/2023	IACS
TAX Vera	Rapporteur	TRAN	07/09/2023	ETF
TAX Vera	Rapporteur	TRAN	06/09/2023	ECSA
TAX Vera	Rapporteur	TRAN	06/09/2023	ETF
KARLESKIND Pierre	Shadow rapporteur	TRAN	31/08/2023	CMA CGM
TAX Vera	Rapporteur	TRAN	31/08/2023	European Commission
KARLESKIND Pierre	Shadow rapporteur	TRAN	30/08/2023	Corsica Linéa
TAX Vera	Rapporteur	TRAN	30/08/2023	KVNR

Final act

Directive 2024/3099
OJ OJ L 16.12.2024 — Summary

Port State control

2023/0165(COD) - 16/12/2024 - Final act

PURPOSE: to revise the Port State Control Directive with a view to adapting Union legislation to international regulations as revised.

LEGISLATIVE ACT: Directive (EU) 2024/3099 of the European Parliament and of the Council amending Directive 2009/16/EC on port State control.

CONTENT: this directive is part of a package of four new pieces of legislation on maritime safety that aim to support clean, safer and modern maritime transport in the EU. These acts amend the relevant Directives on:

- the investigation of accidents in the maritime transport sector (2023/0164(COD));

- ship-source pollution (2023/0171(COD));

- compliance with flag state requirements (2023/0172(COD)), and

- **port state control**.

The revised 'package' achieves a careful balance between, on the one hand, the need to ensure a high quality of shipping and, on the other, the need to safeguard the competitiveness of the European shipping sector, while also maintaining reasonable costs for operators and Member States' administrations.

Port State control is important for ensuring maritime safety and protecting the marine environment. It is a system under which inspections of foreign ships are carried out, in ports of States other than the flag State, by port State control officers to verify that the competence of the master, officers and crew on board, as well as the condition of the ship and its equipment, comply with the requirements of international conventions, as well as with applicable Union law, when the control takes place within the EU.

The revised Directive updates Union legislation and **aligns it with international rules and procedures** established by the Paris Memorandum of Understanding and the International Maritime Organization (IMO) Conventions. Its main elements are:

Inspections on large fishing vessels

The revised Directive protects fishing vessels, their crews and the environment, in particular by establishing a **voluntary system of control** for large fishing vessels (over 24 metres in length).

Fishing vessels of less than 24 metres 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 will be excluded from the scope of this Directive.

Compliance with inspection commitment

The Directive establishes an **efficient and harmonised approach** to carrying out port state control inspections.

A Member State which fails to carry out the required inspections will nevertheless be regarded as complying with that requirement if such missed inspections do not exceed **10%** of the total number of Priority I ships calling at its ports and anchorages, irrespective of their risk profile.

A Member State in which the total number of calls of 'Priority I' ships exceeds its inspection share will be considered to be in compliance with its commitments if the number of inspections carried out by that Member State corresponds at least to that inspection share and if the inspections not carried out by that Member State do not exceed **40%** of the total number of Priority I ships calling at its ports and anchorages.

Postponement of inspections and exceptional circumstances

A Member State may decide to postpone the inspection of a Priority I or II ship if the inspection could be carried out during any subsequent call of the ship in the same Member State **within 15 days** of the actual time of departure, provided that the ship does not in the meantime call at another port within the Union or in the Paris Memorandum of Understanding region, with the exception of any port of the flag State of the ship.

Where an inspection is not carried out on a Priority I or Priority II ship for operational reasons, it will not be counted as a missed inspection, provided that the reason for not carrying out the inspection is recorded in the inspection database and any of the following exceptional circumstances apply:

- the competent authority considers that the inspection would create a risk to the safety of inspectors, the ship or its crew, or to the port, or to the marine environment;

- the ship call at port takes place only during night time; or

- the duration of the ship call is too short for the inspection to be carried out satisfactorily.

If an inspection is not carried out due to **extraordinary and unforeseen circumstances** it will not be counted as a missed inspection and the reason for not carrying out the inspection will be recorded in the inspection database. Those circumstances will be duly justified and reported to the Commission.

Expanded inspections

Ships with a **high-risk profile**, as well as passenger ships, bulk carriers, oil tankers and tankers for gas, harmful liquid substances (NLS) or chemicals, more than 12 years old, will be subject to expanded inspection.

A Member State will **refuse access** to its ports and anchorages to any ship which flies the flag of a State that appears on the low performance list and which has been **detained more than twice in the course of the preceding 36 months** in a port or anchorage of a Member State or of a State signatory to the Paris Memorandum of Understanding.

Encouraging digitisation

Digitisation is a key aspect of technological progress in the field of data collection and communication with a view to contributing to cost reduction. The number of ships currently carrying electronic certificates is on the rise and is expected to continue to increase. The Directive therefore aims to improve the effectiveness of port State control by **making greater use of electronic certificates**, to allow for more ship-focussed and better prepared inspections.

ENTRY INTO FORCE: 5.1.2025.

TRANSPOSITION: no later than 6.7.2027.

Port State control

2023/0165(COD) - 08/12/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Vera TAX (S&D, NL) on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Scope

The report clarified that until such time as a mandatory port State control regime for fishing vessels applies throughout the Union, as a result of the entry into force of the Cape Town Agreement and the amendment of the relevant Union legal acts, individual Member States may carry out port state control inspections of fishing vessels of **above 24 metres length** overall.

Complaints

The amended text stated that Member States should inform the flag State administration, with a copy to the International Labour Organisation (ILO) and the European Maritime Safety Agency (EMSA), of complaints not manifestly unfounded and of follow-up actions taken. The Agency should be invited by Member States, in line with the EMSA regulation, to provide operational and technical support concerning safety investigations.

Refusal of access

The refusal of access order should be lifted after a period of **12 months** has elapsed on condition that the owner or operator provides evidence to the satisfaction of the competent authority of the Member State where the ship was found defective, demonstrating that the ship fully complies with all applicable requirements of the Conventions.

ESMA's involvement

In cooperation with Member States, the Commission should:

- ensure adequate support for the harmonisation of port State control practices across the Union, reporting to the European Parliament and the Council every 4 years on the level of harmonisation and standards of the inspections;

- develop a professional development and training programme for port State control inspectors. The Commission should build on the expertise of EMSA and support its activity, as the trainings it proposes contribute to the harmonisation of port State control officers' practices;

- on a continuous basis, identify and provide **new training needs** to amend the curricula, syllabi and content of the professional development and training programme for inspectors, especially as regards new technologies and in relation to the additional obligations arising from the relevant instruments in order to facilitate compliance with environmental, social, public health and labour law standards and safety on-board ships calling at Union ports for both seafarers and dock workers, with a special focus on female workers.

Moreover, the Commission, with the involvement of EMSA, should produce a **guidance document** offering advice on how to implement international Conventions, in particular the MLC 2006, with regard to port State control. EMSA should also provide detailed information about the most frequent problems detected during port State inspections of ships under each flag.

Inspection database

Members stated that electronic certificates should be **mandatory** for all Members States as early as possible after the entry into force of this amending directive and in any case no later than three years thereafter. Ships flying the flag of a State that issue such electronic certificates should have this reflected in the ship risk profile (SRP) as set out in Annexes I and II until the electronic certificate becomes compulsory.

Publication of information

According to the report, the Commission should make available and maintain on a public website the information on inspections, detentions and refusals of access. Information identifying an individual ship should only be made publicly available if all legal proceedings are finalised and there is no appeal.

Review

Lastly, Members considered that the Commission should, by five years from the date of entry into force of this amending Directive, submit a report to the European Parliament and the Council on the progress by Member States on the ratification of international agreements containing obligations related to fisheries as well as assessing how these obligations should be transposed into Union law and, where appropriate, present a legislative proposal to this effect.

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.

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 a 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 raise to net present costs for the Union Budget of EUR 6.479 million over the period 2025-2050.