Basic information

2023/0172(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Compliance with flag State requirements Amending Directive 2009/21 2005/0236(COD) **Subject** 3.20.03.01 Maritime safety	

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) DELLI Karima (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.	
PECH Fisheries	MIRANDA PAZ Ana (Greens/EFA)	05/09/2023

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)0272	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	A9-0418/2023	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	GEDA/A/(2024)001557 PE759.991	
10/04/2024	Decision by Parliament, 1st reading	T9-0203/2024	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	2023/0172(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2009/21 2005/0236(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/9/12174

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE753.548	19/09/2023	
Amendments tabled in committee		PE754.747	13/10/2023	
Committee opinion	PECH	PE752.995	29/11/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0418/2023	08/12/2023	Summary
Text agreed during interinstitutional negotiations		PE759.991	15/03/2024	
Text adopted by Parliament, 1st reading/single reading		T9-0203/2024	10/04/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)001557	15/03/2024	
Draft final act	00083/2024/LEX	27/11/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2023)0272	01/06/2023	Summary
Document attached to the procedure	SEC(2023)0210	01/06/2023	
Document attached to the procedure	SWD(2023)0165	01/06/2023	
Document attached to the procedure	SWD(2023)0166	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	CES2992/2023	20/09/2023	

Additional information

Source	Document	Date
EP Research Service	Briefing	25/01/2024
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	16/11/2023	EMSA
TAX Vera	Rapporteur	TRAN	25/10/2023	European Commission
TAX Vera	Rapporteur	TRAN	10/10/2023	EUDA

Final act	
Directive 2024/3100 OJ OJ L 16.12.2024	Summary

Compliance with flag State requirements

2023/0172(COD) - 16/12/2024 - Final act

PURPOSE: to enhance maritime safety and to prevent pollution from ships.

LEGISLATIVE ACT: Directive (EU) 2024/3100 of the European Parliament and of the Council amending Directive 2009/21/EC on compliance with flag State requirements.

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**, and

- port state control (2023/0165(COD)).

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.

Subject matter

The responsibility for monitoring the compliance of ships with the conventions of the International Maritime Organization (IMO) lies with the State in which the ship is registered and whose nationality the ship has, namely the flag State.

The purpose of this Directive is: (a) to ensure that Member States effectively and **consistently discharge their responsibilities and obligations as flag States**; and (b) to enhance safety and living and working conditions, and to prevent pollution from ships flying the flag of a Member State.

The Directive updates existing legislation and **aligns it with international rules**, in particular the IMO Code of Implementation (Code III).

Conditions for allowing a ship to operate upon granting the right to fly the flag of a Member State

Prior to allowing a ship which has been granted the right to fly its flag to operate, the Member State concerned will ensure that the ship in question **complies with the applicable international rules and regulations**, including safety, social and environmental standards. In particular, the Member State concerned or the recognised organisation acting on its behalf, as applicable, will verify the safety records of the ship using, where available, the flag State inspection reports and certificates contained in its own database. The Member State concerned will, if necessary, consult with the losing flag State in order to establish whether any outstanding deficiencies or safety issues identified by the latter remain unresolved.

Safety of ships flying the flag of a Member State

The revised Directive ensure the **adequate inspections of flagged ships** and monitoring oversight of recognised organisations working on behalf of the flag state.

Member States will take all necessary measures to ensure compliance with international rules, regulations and standards under the Conventions by ships entitled to fly their flag, including the following:

(a) ensuring that a surveyor employed by a recognised organisation may perform the same tasks as flag State surveyors when authorised to do so by the competent authority of the Member State; and

(b) carrying out flag State inspections to verify that the actual condition of the ship is in conformity with the certificates that it carries.

Member States using a risk-based approach will ensure that ships in respect of which no sufficient data is available for the calculation of the risk rating are inspected **at least once every 5 years**. Member States not using a risk-based approach will ensure that every ship is inspected at least once every 5 years.

The personnel responsible for or performing surveys, flag State inspections, audits and verifications of ships and companies will undergo **training** relevant to the specific activities carried out.

Detention of a ship

When the administration is informed that a ship flying the flag of the Member State concerned has been detained by a port State, it will oversee the ship being brought into compliance with the relevant IMO Conventions.

Information and electronic exchanges

Member States will ensure that information such as statutory certificates, including dates of survey, concerning ships flying their flag are accessible in electronic format in their updated version by 6 January 2031 at the latest. The Commission will establish, manage and update an interoperable **digital portal** providing a single access point for this information, and will make this portal accessible electronically and free of charge for Member States. This portal will be established by 6 January 2028 at the latest.

The Commission will further establish, manage and update a **database** of ship information.

The Directive also ensures a harmonised approach in the understanding, reporting, and measuring of the performance of flag states' fleets and duties.

ENTRY INTO FORCE: 5.1.2025.

TRANSPOSITION: no later than 6.7.2027.

Compliance with flag State requirements

2023/0172(COD) - 01/06/2023 - Legislative proposal

PURPOSE: to update certain provisions of Directive 2009/21/EC on compliance with flag State requirements.

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 2009/21/EC on compliance with flag State requirements regulates the enforcement of rules applicable to flag State at the Union level. The responsibility for monitoring the compliance of ships with particular IMO conventions lies with the State where the ship is registered and whose nationality the ship holds - the flag State. The Directive therefore aims to ensure that ships flying the flags of EU Member States meet all safety and pollution prevention requirements and are fit for service.

The International Maritime Organisation (IMO) has, since the adoption of the Directive, made the IMO Instruments Implementation code (III-Code) and IMO audit mandatory as of 2016 for all flag States in the world, including EU Member States. The III-Code and the IMO audit aims to ensure that States take all necessary steps to correctly implement and apply the Conventions and have the resources and powers needed as a flag State to assume their international obligations and ensure compliance of their flagged ships with these rules.

The Directive consequently needs to be revised and incorporate the flag State relevant parts of the III-Code into EU legislation, to make it enforceable under the EU legal order.

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

CONTENT: in the light of this, a proposal to amend Directive 2009/21/EC has been prepared.

The main changes concern the following:

Subject-matter, scope and definition

The proposal updates some references to IMO instruments in the existing definitions and includes further definitions relevant for the Directive, notably the III-Code.

Conditions for allowing a ship to sail

The Directive is amended to introduce the use of the **database for verification** of the condition of the ship (transferring in, as the case may be) before the ship is allowed to operate. A new article requires the Member State as flag State to adhere to the III-Code and the requirement to carry out supplementary flag State inspections to ensure the safety of ships flying the flag of a Member State.

Administrations should have the **appropriate resources**, commensurate with the size and type of fleet (ships registered under the flag) to meet the supplementary inspection obligations.

The proposal lays down responsibilities and common capacity building of the flag State personnel. This includes the **continuous development of training schemes** and material reflecting updates in the international IMO Conventions as well as possible new requirements following on from environmental considerations especially as regards new technologies (e.g. propulsion, new types of fuel etc).

Actions in relation to or following monitoring of flagged ships

The proposal requires Member States as flag States to use the Union Maritime Information Exchange System (SafeSeaNet) to control and monitor ships under their flag and check e.g. whether they are being detained under port State control. This amendment also addresses the lack of flexibility of the flag State regime in cases of crisis or unexpected events, such as the COVID-19 pandemic.

Electronic information and inspection database

The proposal introduces **e-documents** that are to be recorded, kept, reported and shared via a national e-certification registry compatible with the inspections database. E-documents concern among others e-inspection reports and e-certificates. The information will be communicated to the inspection database developed by the Commission. Electronic transmissions of electronic certificates will use the same technical solutions as those established by the Port State Control Directive.

Monitoring of compliance and performance

The Directive is amended to clarify what information should be published following an IMO Audit. It also introduces the requirement that the Member State as auditee should allow for the possibility of the Commission, assisted by EMSA, to observe such IMO audits. The aim is to ensure transparency and facilitate synergies between IMO Audits and EMSA visits.

Quality Management and performance of flag States

The scope and coverage of the Quality Management System is clarified to cover all registries, whether it is the traditional (so-called first registers), international or overseas or similar (called second registers) under the authority of the flag State and flying the flag of that State as well as coverage of all flag State-related activities.

Moreover, the current performance measurement should be revised and modernised, via an implementing act. The requirements to be applied by the Member States for their own assessment of performance as well as the requirement for the Commission to make overall results publicly available is introduced.

Cooperation and exchange of information

The proposal establishes a **high-level group** on flag State matters, composed of Member States' Flag State authorities and experts for discussing all flag State related and pertinent issues. It also establishes a dynamic **electronic reporting tool** for gathering information and statistics.

Budgetary implications

The proposal has net present costs for the Union Budget of EUR 7 to 8.1 million over the period 2025-2050.

Compliance with flag State requirements

2023/0172(COD) - 10/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 590 votes to 20, with 10 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/21/EC on compliance with flag State requirements.

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

Subject matter and scope

It is stipulated that the purpose of the Directive is to: (a) ensure that Member States effectively and consistently discharge their responsibilities and obligations as flag States; and (b) **enhance safety, working and living conditions, and to prevent pollution** from ships flying the flag of a Member State.

This Directive should apply to the administration of the State whose flag the ship is flying, for ships subject to certification and engaged in any type of international voyages.

Conditions for allowing a ship to operate upon granting the right to fly the flag of a Member State

Prior to allowing a ship which has been granted the right to fly its flag to operate, the Member State concerned should ensure that the ship in question complies with the applicable international rules and regulations, including safety, social and environmental standards. Those measures may be taken by a recognised organisation, acting on behalf of the Member State, when duly authorised by the competent authority.

Safety of ships flying the flag of a Member State

Member States should take all necessary measures to ensure compliance with international rules, regulations and standards related to the Conventions by ships entitled to fly their flag, including the following:

- ensuring that a surveyor employed by a recognised organisation may perform the same tasks as flag State surveyors when so authorised by the competent authority of the Member State; and

- carrying out flag State inspections to verify that the actual condition of the ship is in conformity with the certificates it carries; such inspections may be carried out using a **risk-based approach**, which should include the following criteria: (i) records of deficiencies and non-conformities from statutory surveys, audits and verifications performed by the flag State; (ii) relevant accident investigation reports; (iii) detentions or prohibition of operation notices issued by a port State control authority.

Member States using a risk-based approach should ensure that ships for which there is no sufficient data available for the calculation of the risk rating are inspected **at least once every 5 years**. Member States not using a risk-based approach should carry out flag State inspections using their own procedures, instructions and relevant information in compliance with the III Code. They should ensure that every ship is inspected at least once every 5 years.

Member States should ensure that any deficiencies requiring corrective measures, including safety, environmental and social concerns, confirmed or revealed by an inspection carried out are rectified within an appropriate timeframe, as determined by the flag State.

Safety and pollution prevention requirements

Each Member State should: (i) ensure that appropriate resources, according to the size and type of its fleet and with respect to the implementation of the administrative processes, procedures and resources necessary; (ii) ensure the oversight of the activities of flag State surveyors, flag State inspectors and other personnel assisting in the performance of surveys, and recognised organisations; (iii) ensure that a design review and technical decision-making capability according to the size and type of its fleet, are developed or maintained.

The personnel responsible for or performing surveys, inspections, audits and verifications of ships and companies should undergo **training** relevant to the specific activities carried out.

Electronic information and exchange

Information concerning ships flying their flag should be made available in **electronic format** in its up-to-date version at the latest by 6 years from the date of entry into force of this Directive.

The Commission should develop, maintain and update a **digital interoperable portal** providing for a single point of access for the information and allowing Member States' flag and port State inspectors to access this information in the performance of their duties. The Commission should make that portal electronically accessible and free of charge for Member States. The portal should not contain personal data or confidential information. It should be established by 3 years from the date of entry into force of this Directive at the latest.

Ships information database

The Commission should develop, maintain and update a ships information database containing the information and providing services for Member States on issuing and controlling of electronic certificates. The ships information database should be established by **5 years** from the date of entry into force of this Directive at the latest. Member States may connect to that database.

Quality management systems

Each Member State should implement and maintain a quality management system covering the operational parts of the flag State-related activities of its administration.

The quality management system should include defined responsibilities, authority and interrelation of personnel performing surveys, inspections, audits and verifications and the flag State personnel who manage, perform and verify work relating to and affecting the flag State obligations.

Member States should take appropriate measures to prevent conflicts of interests of all personnel performing a survey, verification or inspection and regarding independence in relation to the work to be performed.

Member States which appear on the low performance list or which appear, for two consecutive years, on the medium performance list as published in the most recent annual report of the Paris Memorandum of Understanding on Port State Control should provide the Commission with a report on their flag State performance no later than four months after the publication of the Paris MOU report.

The Commission should provide for the organisation of **exchange of best practices and experiences** between Member States' national authorities and flag State experts and inspectors, including, as appropriate, other relevant stakeholders, for the implementation of this Directive.

Compliance with flag State requirements

2023/0172(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 2009/21/EC on compliance with flag State requirements.

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:

Conditions for allowing a ship to operate upon granting the right to fly the flag of a Member State

To ensure the effectiveness of this Directive, every EU flag State should carry out its fair share of inspections, commensurate with the size and type of its fleet. A yearly minimum inspection quota of at least **30 %** of ships flying its flag for every Member State should be set.

The Commission, with the assistance of EMSA, should produce a **guidance document** offering advice on how to implement Directive 2013/54/EU concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006. EMSA should also provide detailed information about the problems most frequently detected during port State inspections of ships under each flag, as well as explanations and clarifications concerning the specific documentation and certificates of each flag State.

Electronic certificates should be mandatory for all Members States from three years from the date of entry into force of this amending Directive, at the latest. The report also called for Member States to ensure that shipboard working arrangements and records of seafarers' daily hours of work or of their daily hours of rest are transmitted electronically to the inspection database..

Flag State auditing process

Member States should take the necessary measures to undergo the IMO audit of their administration at least once every five years (compared to seven years proposed by the Commission) and should publish the outcome of the audit as well as any corrective actions in the Global Integrated Shipping Information System (GISIS) database set up by the IMO. Member States should also make the same information available to the public, in accordance with relevant national legislation on confidentiality.

Quality management system and internal evaluation

Members suggested that flag States should revise the guidelines provided to their inspectors, and to those authorised to act on their behalf, so that they cover the systematic verification of the accuracy of records. Training provided by EMSA to flag State administrations should cover such verification procedures and should be continuous, reinforced and extended to cover MLC 2006 in more detail. EMSA should also facilitate the coordination and exchange of information and good practices between flag State administrations.

Reports and Review

The report stated that every five years, and for the first time by three years from the date of entry into force of this amending Directive, the Commission should present a report to the European Parliament and to the Council on the application of this Directive. This report should contain an assessment of the performance of the Member States as flag States and should be accompanied, where appropriate, by a legislative proposal for the amendment of this Directive.

The Commission should also issue an annual report based on the information collected, which should be published on the official website.