

SENATE OF THE REPUBLIC

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RESOLUTION OF THE 8TH STANDING COMMITTEE

(Public works, communications)

(Rapporteur: Senator CARDINALI)

approved at the session of 20 July 2016

ON THE

**PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL AMENDING DIRECTIVE 2009/45/EC ON SAFETY RULES AND
STANDARDS FOR PASSENGER SHIPS (COM(2016) 369 FINAL)**

pursuant to Article 144(1) and (6) of the Rules of Procedure

Sent to the President's Office on 22 July 2016

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The Committee,

having examined, pursuant to Article 144 of the Rules of Procedure, EU document COM(2016) 369 final on the proposal for a Directive of the European Parliament and of the Council amending Council Directive 2009/45/EC on safety rules and standards for passenger ships, which was submitted for our reasoned opinion as regards subsidiarity;

whereas, in communication COM(2015) 508, the European Commission reported on the results of the legislative fitness check on the rules governing passenger ship safety in the European Union carried out as part of the REFIT programme and the 'Better Regulation' agenda;

whereas the current European Union regulatory framework on passenger ship safety comprises various directives issued from 1998 onwards; according to the aforementioned legislative fitness check, however, these do not always appear to be mutually consistent, since each of them has a different scope and applies to different types of ships and voyages and they do not take account of the technological development in the last decade which has rendered some of the existing provisions outdated and unnecessarily burdensome;

whereas the fitness check concerned Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009, which covers passenger ships made of steel or equivalent material and high-speed craft, Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 and Council Directive 1999/35/EC of 29 April 1999, which provide for specific rules for roll-on roll-off passenger ships (known as ro-pax ships) and high-speed craft (HSC) and Council Directive 98/41/EC of 18 June 1998 on the registration of persons on board;

whereas the main proposals to amend Directive 2009/45/EC involve updating, clarifying and simplifying the definitions and safety standards for passenger ships and removing a number of outdated, redundant and inconsistent legal references. In particular, among the new provisions introduced by the proposal, the following are worthy of note:

the explicit exclusion from the scope of the Directive of some types of ship, including new and existing passenger ships below 24 m in length, sailing ships, traditional ships, pleasure craft and tenders. Indeed, for small ships below 24 m in length, Directive 2009/45/EC gave Member States the flexibility to apply national safety rules when they find that the harmonised standards for small ships are impracticable or unreasonable, with the result that the Directive currently applies to only 70 out of 1 950 small ships;

the updating of the definition of 'equivalent material' (equivalent to steel for fire safety purposes), so as to explicitly cover aluminium, both for new ships and for existing ones (which must come into line within five years of the date set). Up until now, indeed, the Member States have interpreted this definition in various different ways, meaning that some of them certify the safety of aluminium ships pursuant to Directive 2009/45/EC while others do not;

having regard to the information set out in the Government report drawn up pursuant to Article 6(4) and (5) of Law No 234 of 24 December 2012;

having regard to the information provided by the General Headquarters of the Harbourmasters' Corps/Coast Guard and ship operators' trade associations;

having regard also to the comments of the 14th Committee;

whereas the legal basis has been correctly identified as Article 100(2) of the Treaty on the Functioning of the European Union (TFEU), which provides for the ordinary legislative procedure to be used to lay down appropriate provisions for sea and air transport,

hereby expresses, pursuant to Protocol (No 2) to the TFEU on the application of the principles of subsidiarity and proportionality:

a favourable opinion as to compliance with the principle of subsidiarity, since action at European Union level is both necessary and brings added value as compared to action by the Member States alone. Indeed, acting alone they cannot achieve the objective of improving the rules on passenger ship safety under Directive 2009/45/EC by providing for a clear, simple and up-to-date legal framework that is easier to implement, monitor and enforce;

a favourable opinion as to compliance with the principle of proportionality, since the proposal does not go beyond what is necessary to achieve the above objective; nor do the powers granted to the European Commission to adopt delegated acts so as to take account of developments in legislation at international level, improving the technical requirements in the light of experience gained, require the adoption of decisions concerning essential elements of the Directive;

also expresses a favourable opinion on the substantive elements that are relevant in the context of political dialogue with the Union institutions, with the following comments:

the aims being pursued by the proposal for a directive seem very welcome since, by harmonising, simplifying and updating the European legislation in force, it will help to increase the safety of passenger ships;

however, there should be provision for the Member States to maintain any stricter accident prevention systems and arrangements that have been established in national law;

the new Article 6(6) of Directive 2009/45/EC, as amended by the proposal for a directive, provides that ships built from an equivalent material (i.e. aluminium) before the entry into force of the new directive are to come into line with its requirements within five years of the date set by the European Commission. Such retroactive application of the rule is a cause for some concern, since ships currently certified in accordance with the national legislation (which thus have appropriate safety levels) may be required to bear sometimes enormous costs to come into line with the new rules. There should thus be an assessment of whether it is appropriate not to extend the new rules to existing ships or, in the alternative, to allow a longer adjustment period.

This document is also to be understood as guidance to the Government within the meaning of Article 7 of Law No 234 of 24 December 2012.

OPINION OF THE 14TH STANDING COMMITTEE

(European Union Policies)

(Rapporteur: Senator COCIANCICH)

29 June 2016

The Committee,

having examined document COM(2016) 369 final,

whereas, in communication COM(2015) 508, the European Commission reported on the results of the legislative fitness check carried out on the rules governing passenger ship safety as part of the REFIT programme and the 'Better Regulation' agenda;

whereas European Union legislation on passenger ship safety comprises a series of directives issued over a fifteen year period which, however, according to the aforementioned legislative quality assessment, do not form an entirely consistent regulatory framework, since each of them has a different scope and applies to different types of ships and voyages and they do not take account of the technological development in the last decade which has rendered some of the existing provisions outdated and unnecessarily burdensome;

whereas the fitness check mainly concerned Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009, which covers passenger ships made of steel or equivalent material and high-speed craft, Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 and Council Directive 1999/35/EC of 29 April 1999, which provide for specific rules for roll-on roll-off passenger ships (known as ro-pax ships) and high-speed craft (HSC) and Council Directive 98/41/EC of 18 June 1998 on the registration of persons on board;

whereas the main proposals to amend Directive 2009/45/EC are intended to clarify or adjust some definitions, the scope of the Directive and the procedures laid down therein, and to remove outdated, redundant and inconsistent legal references. In particular, the new provisions introduced by the proposal include:

exclusion from the scope of the Directive of sailing ships, tenders, offshore supply vessels and ships below 24 m in length. Indeed, for small ships below 24 m in length, Directive 2009/45/EC gave Member States the flexibility to apply national safety rules when they find that the harmonised standards for small ships are impracticable or unreasonable, with the result that the Directive currently applies to only 70 out of 1 950 small ships;

updating the definition of 'equivalent material' (equivalent to steel for fire safety purposes), so as to explicitly cover aluminium too. Up until now, indeed, the Member States have interpreted this definition in a non-uniform manner, meaning that some of them certify the safety of aluminium ships pursuant to Directive 2009/45/EC while others do not;

comments favourably, for matters within its remit, highlighting the following points:

the legal basis has been correctly identified as Article 100(2) of the Treaty on the Functioning of the European Union (TFEU), which provides for the ordinary legislative procedure to be used to lay down appropriate provisions for sea and air transport;

the principle of subsidiarity is complied with, since the objective of improving the rules on ship safety under Directive 2009/45/EC in terms of being clearer, providing greater legal certainty and being more up-to-date, as well as more uniformly applied, cannot be achieved by the Member States acting individually;

as regards the principle of proportionality, the proposal does not go beyond what is necessary to achieve the above objective; nor do the powers granted to the European Commission to adopt delegated acts so as to take account of developments in legislation at international level, improving the technical requirements in the light of experience gained, require the adoption of decisions concerning essential elements of the Directive;

it is important to provide that it will be possible to maintain any stricter systems to prevent maritime casualties, and the necessary instruments to this end, that have been established in the Member States' national law.