

SENATE OF THE REPUBLIC

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No 140

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 COUNCIL DIRECTIVE 98/41/EC ON THE REGISTRATION OF PERSONS SAILING ON BOARD PASSENGER SHIPS OPERATING TO OR FROM PORTS OF THE MEMBER STATES OF THE COMMUNITY AND AMENDING DIRECTIVE 2010/65/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON REPORTING FORMALITIES FOR SHIPS ARRIVING IN AND/OR DEPARTING FROM PORTS OF THE MEMBER STATES (COM(2016) 370 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) 370 final on the proposal for a directive of the European Parliament and of the Council amending Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States, 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not take account of the technological development in the last decade which has rendered some of the existing provisions outdated and unnecessarily burdensome;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 Directive 98/41/EC on the registration of persons on board;

whereas the main proposals to amend Directive 98/41/EC involve updating, clarifying and simplifying the current requirements for counting, registering and reporting information on passengers and crew sailing on board passenger ships operating to or from ports of the European Union, while at the same time increasing the safety level and exploiting the digitalisation potential of recording, transmitting, accessing and protecting data, including so as to eliminate the double reporting of information currently imposed on operators. In particular, among the main new provisions introduced by the proposal, the following are worthy of note:

the updating of Directive 98/41/EC, particularly as regards its definitions and scope, including so as to align it with the amendments made to Directives 2009/45/EC and 1999/35/EC by proposals for directives COM(2016) 369 and COM(2016) 371 respectively;

the replacement of the current requirement to store the information on the number of passengers on board in the shipping company with the requirement to report this information to the authorities by recording it in the National Single Window (Port Management Information System - PMIS) or transmitting it by means of Automatic Identification System (transponder);

the adjustments needed to take account of removal of the requirement to store the information and the introduction of the new electronic transmission arrangements;

the removal of the outdated exemption from the requirement to record and store information for regular services crossing the Strait of Messina and introduction of the possibility for Member States to exempt ships sailing exclusively in protected sea areas in which the proximity of search and rescue facilities is ensured from the requirements to collect passenger information and transmit it to the competent authorities;

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 procedures for collecting the passenger information referred to in Directive 98/41/EC and reporting it to the authorities, in such a way as to ensure greater completeness and timeliness and thus a more uniform level of safety within the Union;

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. As regards the power to adopt delegated acts granted to the European Commission by the new Article 12 introduced by point (10) of the proposal for a directive, we would nevertheless point out that it is necessary to retain, with appropriate rewording, the first paragraph of the current Article 12 of Directive 98/41/EC, which specifies that the Directive may be amended by a delegated act of the European Commission only to take account of developments at international level and that such amendments may concern only 'non-essential elements' of the Directive. Retaining this first paragraph would also be in line with Recital 14 to the proposal for a directive and the analogous provision of the aforementioned proposal for a directive COM(2016) 369;

also expresses a favourable opinion on the substantive elements that are relevant in the context of political dialogue with the European 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;

it should however be specified that the information on persons on board passenger ships can be used also to take measures to prevent acts of sabotage and piracy;

the requirement laid down by the current Article 10 of Directive 98/41/EC for passenger registration systems to be approved by the Member States has led to a considerable workload

for the national administration. Given the rewording of Article 10 in the proposal for a directive, it should thus be ensured that the passenger registration requirements imposed on shipping companies focus both on the means (i.e. the keeping of specific registration systems) and on the result, i.e. the precision and timeliness of information collection in the existing electronic systems;

with reference to the amendments made by the proposal for a directive under examination, in order to simplify as far as possible the procedures and costs facing shipping companies it seems appropriate to coordinate more closely the requirements laid down by Directive 98/41/EC and Directive 2010/65/EU, particularly as regards management of the passenger lists provided for by each Directive; these currently have different aims and characteristics but now might be the time to standardise and replace them with the new electronic communication arrangements.

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) 370 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 concerned mainly 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, but also 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 Directive 98/41/EC of the European Parliament and of the Council of 18 June 1998 on the registration of persons on board;

whereas the main proposals to amend Directive 98/41/EC involve updating, clarifying and simplifying the current requirements for counting and registering passengers and crew sailing on board passenger ships, increasing the safety level and exploiting the digitalisation potential of recording, transmitting, accessing and protecting data. In particular, the main provisions introduced by the proposal include:

the alignment of the definitions and scope of Directive 98/41/EC with the proposal to amend Directive 2009/45/EC (COM(2016) 369) and the proposal for a new directive to replace Directive 1999/35/EC (COM(2016) 371);

the replacement of the current requirement to store the information on the number of passengers on board with the requirement to report this information to the authorities by recording it in the National Single Window (Port Management Information System - PMIS) or transmitting it by means of Automatic Identification System (transponder);

the necessary amendments resulting from removal of the requirement to store information and the introduction of electronic communication;

the removal of the outdated exemption from the requirement to record and store information for regular services crossing the Strait of Messina and introduction of the possibility for Member States to exempt ships sailing exclusively in protected sea areas in which the proximity of search and rescue facilities is ensured from the requirements to collect and transmit passenger information;

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, in terms of greater completeness and timeliness, the procedures under Directive 98/41/EC for recording passenger information and reporting it to the authorities, so as to ensure a uniform level of safety in the waters of the European Union, cannot be achieved by the Member States individually;

as regards the principle of proportionality, the proposal does not go beyond what is necessary to achieve the above objective. However, as regards the power to adopt delegated acts granted to the European Commission by the new Article 12 introduced by point (10) of the proposal for a Directive, it appears necessary to retain, with appropriate rewording, the first paragraph of the current Article 12 of Directive 98/41/EC, which specifies that the Directive may be amended by a delegated act of the European Commission only to take account of developments at international level and that such amendments may concern only 'non-essential elements' of the Directive. Retaining this first paragraph would also be in line with Recital 14 to the proposal for a directive and the analogous provision of the aforementioned proposal for a directive COM(2016) 369;

we believe it is important to specify that the information on persons on board passenger ships can be used also to take measures to prevent acts of sabotage and piracy.