

# SENATE OF THE REPUBLIC

17<sup>TH</sup> LEGISLATURE

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No 141

## RESOLUTION OF THE 8<sup>TH</sup> 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 ON A SYSTEM OF INSPECTIONS FOR THE SAFE OPERATION OF RO-RO FERRY AND HIGH-SPEED PASSENGER CRAFT IN REGULAR SERVICE AND AMENDING DIRECTIVE 2009/16/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PORT STATE CONTROL AND REPEALING COUNCIL DIRECTIVE 1999/35/EC (COM(2016) 371 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, EU document COM(2016) 371 final on the proposal for a directive of the European Parliament and of the Council on a system of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service and amending Directive 2009/16/EC of the European Parliament and of the Council on port State control and repealing Council Directive 1999/35/EC, 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not take account of the technological development in the last decade which has rendered some of the existing provisions outdated and unnecessarily burdensome;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, Directives 2003/25/EC of the European Parliament and of the Council of 14 April 2003 and 1999/35/EC, 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 Directive 1999/35/EC provides for inspections on the safety of ro-ro passenger ferries and high-speed passenger craft (HSC) as regards the specific risks related to undivided vehicle decks giving rise to vulnerabilities regarding stability, fire, cargo shift and water-tightness;

whereas, however, in practice the inspections under Directive 1999/35/EC partially overlapped with the port State control inspections under Directive 2009/16/EC and the annual inspections by the flag State under Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 (for international voyages) and Directive 2009/45/EC (for national voyages); accordingly, the proposal for a directive seeks to clarify the scope of the various directives;

whereas, in particular:

- the proposal excludes from its scope those vessels subject to port State control inspections carried out in accordance with Directive 2009/16/EC; its scope is thus limited to passenger ships providing regular services between ports within a Member State or between a port in a Member State and a port in a third State (if the flag of the vessel is the same as that of the Member State);
- the proposal repeals Directive 1999/35/EC, incorporating the corresponding provisions into the new text and updating them in line with the developments that have occurred in practice and in European and international legislation, including the provisions on

inspection reports, prohibitions of departure, appeals, costs, the inspection database and penalties, which have been brought into line with the corresponding provisions of Directive 2009/16/EC on port State control;

- the proposal establishes a system of inspections, based on the ship rather than on the company, prior to the commencement of a regular service;
- the proposal establishes that regular inspections should take place twice a year with a certain time-lag between inspections and that one of these inspections should be an in-service inspection during a regular crossing. It also provides that a Member State may, if it wishes, combine the inspection with the annual flag State survey, thereby reducing the burden on the administration as well as on the ship operator;

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 opinion of the 14<sup>th</sup> 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 individual States. Indeed, acting alone they cannot achieve the objective of updating the procedures for checking safety on board ferries pursuant to Directive 1999/35/EC and coordinating them with inspections by the flag State and port State;

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; indeed, the aims being pursued by the proposal for a directive seem very welcome since, by simplifying the legislation and rationalising the associated operational stages, they make it possible, on the one hand, to improve the level of inspections and, on the other, to significantly streamline the formalities for ships subject to those inspections and the time for which they can be commercially exploited.

This document is also to be understood as guidance to the Government within the meaning of Article 7 of Law No 2012 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) 371 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, which covers passenger ships made of steel or equivalent material and high-speed craft, but also Directives 2003/25/EC and 1999/35/EC, 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 Directive 1999/35/EC provides for inspections on the safety of ro-ro passenger ferries and high-speed passenger craft as regards the specific risks related to undivided vehicle decks giving rise to vulnerabilities regarding stability, fire, cargo shift and water-tightness;

whereas, however, in practice the inspections under Directive 1999/35/EC partially overlapped with the port State control inspections under Directive 2009/16/EC and with the annual inspections by the flag State under Directive 2009/21/EC (for international voyages) and Directive 2009/45/EC (for national voyages); accordingly, the proposal for a directive seeks to clarify the scope of the various directives;

whereas, in particular:

- the proposal excludes from its scope those vessels subject to port State control inspections; its scope is thus limited to passenger ships providing regular services between ports within a Member State or between a port in a Member State and a port in a third State (if the flag of the vessel is the same as that of the Member State);
- the proposal repeals Directive 1999/35/EC, incorporating the corresponding provisions into the new text and updating them in line with the developments that have occurred

in practice and in European and international legislation, including the provisions on inspection reports, prohibitions of departure, appeals, costs, the inspection database and penalties, which have been brought into line with the corresponding provisions of Directive 2009/16/EC on port State control;

- as regards inspections prior to the commencement of a regular service, the proposal does away with inspections on the company, concentrating instead on those on the ship;
- the proposal establishes that regular inspections should take place twice a year with a certain time-lag between inspections and that one of these inspections should be an in-service inspection during a regular crossing. It also provides that a Member State may, if it wishes, combine the inspection with the annual flag State survey, so as to reduce the burden on the administration as well as on the ship operator;

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 updating the procedures for checking safety on board ferries pursuant to Directive 1999/35/EC and coordinating them with inspections by the flag State and port State 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. In addition, the powers granted to the European Commission to adopt delegated acts so as to take account of developments in legislation at international level and improve the technical specifications in the light of experience gained do not require the adoption of decisions concerning essential elements of the Directive.