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2020/0329 (COD)**

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## **PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	18 November 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 739 final
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the minimum level of training of seafarers (codification)

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Delegations will find herewith attached the Commission codification proposal referred to in the subject (COM(2020) 739 final - 2020/0329 (COD) and Annexes 1 to 5).

Delegations are invited to send their comments on the codification proposal by Friday 18 December 2020 to the following addresses:

[Codification@consilium.europa.eu](mailto:Codification@consilium.europa.eu) **AND** [sj-codification@ec.europa.eu](mailto:sj-codification@ec.europa.eu)

Delegation's attention is drawn to the Practical Guide on Codification (doc. 14722/14 + COR1).

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Encl.: COM(2020) 739 final



Brussels, 18.11.2020  
COM(2020) 739 final

2020/0329 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the minimum level of training of seafarers (codification)**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided<sup>1</sup> to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this<sup>2</sup>, stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers<sup>3</sup>. The new Directive will supersede the various acts incorporated in it<sup>4</sup>; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.
5. The codification proposal was drawn up on the basis of a preliminary consolidation, in 24 official languages, of Directive 2008/106/EC and the instruments amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex V to the codified Directive.

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<sup>1</sup> COM(87) 868 PV.

<sup>2</sup> See Annex 3 to Part A of the Conclusions.

<sup>3</sup> Entered in the legislative programme for 2020.

<sup>4</sup> See Annex IV, Part A, to this proposal.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the minimum level of training of seafarers (codification)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty  on the Functioning of the European Union , and in particular Article  100(2)  thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>5</sup>,

Having regard to the opinion of the Committee of the Regions<sup>6</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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↓ 2008/106/EC recital 1 (adapted)

- (1) Directive  2008/106/EC  of the European Parliament and of the Council<sup>7</sup> has been  substantially  amended several  times <sup>8</sup>.  In the interests  of clarity  and rationality ,  that Directive  should be  codified .

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↓ (EU) 2019/1159 recital 1 (adapted)

- (2) In order to maintain, and to aim to improve,  a  high level of maritime safety and  the  prevention  of pollution  at sea, it is essential to maintain and possibly to improve the level of knowledge and skills of Union seafarers by

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<sup>5</sup> OJ C [...], [...], p. [...].

<sup>6</sup> OJ C [...], [...], p. [...].

<sup>7</sup> Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).

<sup>8</sup> See Annex IV, Part A.

developing maritime training and certification in line with international rules and technological progress, as well as to take further action to enhance the European maritime skills base.

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↓ (EU) 2019/1159 recital 2  
(adapted)

- (3) The training and certification of seafarers is regulated at international level by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) of the International Maritime Organization (IMO), which was subject to a major revision at a Conference of Parties to the STCW Convention held in Manila in 2010 (Manila amendments). Further amendments to the STCW Convention were adopted in 2015 and in 2016.
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↓ (EU) 2019/1159 recital 3  
(adapted)

- (4) This Directive incorporates the STCW Convention into Union law. All Member States are signatories to the STCW Convention and thus a harmonised implementation of their international commitments is to be achieved through the alignment of Union rules on the training and certification of seafarers with the STCW Convention.
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↓ 2012/35/EU recital 13 (adapted)

- (5) The Union shipping sector has maritime expertise of a high quality which helps to underpin its competitiveness. The quality of training for seafarers is important for the competitiveness of this sector and for attracting Union citizens, in particular young people, to the maritime professions.
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↓ 2008/106/EC recital 8 (adapted)

- (6) Member States may establish higher standards than the minimum standards laid down in the STCW Convention and in this Directive.
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↓ 2008/106/EC recital 9

- (7) The Regulations of the STCW Convention annexed to this Directive should be supplemented by the mandatory provisions contained in Part A of the Seafarers' Training, Certification and Watchkeeping Code (STCW Code). Part B of the STCW Code contains recommended guidance intended to assist Parties to the STCW Convention and those involved in implementing, applying or enforcing its measures to give the Convention full and complete effect in a uniform manner.

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↓ (EU) 2019/1159 recital 5  
(adapted)

- (8) One of the objectives of the common transport policy in the field of maritime transport is to facilitate the movement of seafarers within the Union. Such movement contributes, among other things, to making the Union maritime transport sector attractive to future generations, thereby avoiding a situation  whereby  the European maritime cluster is faced with a shortage of competent staff with the right mix of skills and competencies. The mutual recognition of seafarers' certificates issued by Member States is essential to facilitate the free movement of seafarers. In the light of the right to good administration, Member States' decisions in respect of  the  acceptance of certificates of proficiency issued to seafarers by other Member States for the purpose of issuing national certificates of competency should be based on reasons that are capable of being ascertained by the seafarer concerned.
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↓ 2012/35/EU recital 5 (adapted)

- (9) Training for seafarers should cover proper theoretical and practical training so as to ensure that seafarers are qualified to meet security and safety standards and are able to respond to hazards and emergencies.
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↓ 2008/106/EC recital 11  
(adapted)

- (10) Member States should take and enforce specific measures to prevent and penalise fraudulent practices associated with certificates of competency  and certificates of proficiency  as well as pursue their efforts within the IMO to achieve strict and enforceable agreements on the worldwide  fight against  such practices.
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↓ 2012/35/EU recital 6

- (11) Quality standards and quality standards systems should be developed and implemented taking into account, where applicable, the Recommendation of the European Parliament and of the Council of 18 June 2009 <sup>9</sup> and related measures adopted by the Member States.
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↓ 2008/106/EC recital 10  
(adapted)

- (12) For the enhancement of maritime safety and  the  prevention  of pollution  at sea, provisions on minimum rest periods for watchkeeping personnel should be  laid down  in this Directive in accordance with the STCW Convention. Those

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<sup>9</sup> Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training (OJ C 155, 8.7.2009, p. 1).

provisions should be applied without prejudice to the provisions of Council Directive 1999/63/EC<sup>10</sup>.

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↓ 2012/35/EU recital 7 (adapted)

- (13) European social partners have agreed on minimum hours of rest applicable to seafarers and Directive 1999/63/EC was adopted with a view to implementing that agreement. That Directive also allows for the possibility to authorise exceptions to the minimum hours of rest for seafarers. The possibility to authorise exceptions should, however, be limited in terms of  the  maximum duration, frequency and scope. The Manila amendments aimed, amongst other things, to set objective limits to the exceptions to the minimum rest hours for watchkeeping personnel and seafarers with designated tasks related to safety, security and  the  prevention of pollution, with a view to preventing fatigue.  Therefore, this Directive should reflect  the Manila amendments in a manner that ensures coherence with Directive 1999/63/EC.
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↓ 2008/106/EC recital 12  
(adapted)

- (14) In order to enhance maritime safety and prevent loss of human life and maritime pollution, communication among crew members on board ships sailing in  Union  waters should be  ensured .
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↓ 2008/106/EC recital 13

- (15) Personnel on board passenger ships nominated to assist passengers in emergency situations should be able to communicate with the passengers.
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↓ 2008/106/EC recital 14

- (16) Crews serving on board tankers carrying noxious or polluting cargo should be capable of coping effectively with accident prevention and emergency situations. It is paramount that a proper communication link between the master, officers and ratings is established, covering the requirements provided for in this Directive.
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↓ 2008/106/EC recital 15  
(adapted)

- (17) It is essential to ensure that seafarers holding certificates issued by third countries and serving on board  Union  ships have a level of competence equivalent to that required by the STCW Convention. This Directive should lay down procedures and common criteria for the recognition by the Member States of  seafarers'  certificates issued by third countries, based on the training and certification requirements as agreed in the framework of the STCW Convention.
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<sup>10</sup> Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) (OJ L 167, 2.7.1999, p. 33).

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↓ 2008/106/EC recital 16

- (18) In the interests of safety at sea, Member States should recognise qualifications proving the required level of training only where these are issued by or on behalf of Parties to the STCW Convention which have been identified by the IMO Maritime Safety Committee (MSC) as having been shown to have given, and still to be giving, full effect to the standards set out in that Convention. To bridge the time gap until the MSC has been able to carry out such identification, a procedure for the preliminary recognition of certificates is needed.
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↓ (EU) 2019/1159 recital 6  
(adapted)

- (19)  This  Directive contains a centralised system for the recognition of seafarers' certificates issued by third countries. In order to use the available human and financial resources in  an  efficient way, the procedure for the recognition of third countries should be based on an analysis of the need for such recognition, including but not limited to an indication of the estimated number of masters, officers and radio operators originating from that  third  country who are likely to be serving on ships flying the flags of Member States. That analysis should be submitted for examination to the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS).
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↓ (EU) 2019/1159 recital 8  
(adapted)

- (20) In order to ensure the right of all seafarers to decent employment and in order to limit distortions of competition in the internal market,  for the  future recognition of third countries  it  should  be considered if  those third countries have ratified the Maritime Labour Convention, 2006.
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↓ (EU) 2019/1159 recital 9  
(adapted)

- (21) In order to  ensure  the efficiency of the centralised system for the recognition of  seafarers' certificates issued by  third countries,  a  reassessment of third countries which provide a low number of seafarers to ships flying the flags of Member States should be performed at intervals  of  ten years. This long period of reassessment of the system of such third countries should be combined with priority criteria which take into account safety concerns, balancing the need for efficiency with an effective safeguard mechanism in case of  a  deterioration  in  the quality of seafarers' training provided in the relevant third countries.
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↓ 2008/106/EC recital 17

- (22) Where appropriate, maritime institutes, training programmes and courses should be inspected. Criteria for such inspection should therefore be established.



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↓ 2008/106/EC recital 19

- (23) The European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>11</sup> should assist the Commission in verifying that Member States comply with the requirements laid down in this Directive.
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↓ (EU) 2019/1159 recital 10  
(adapted)

- (24) Information on the seafarers employed from third countries has become available at Union level through the communication by Member States of the relevant information kept in their national registers regarding issued certificates and endorsements. That information should be used for statistical and policy-making purposes, in particular for the purpose of improving the efficiency of the centralised system for the recognition of ☒ seafarers' certificates issued by ☒ third countries. Based on the information communicated by the Member States, the recognition of third countries which have not provided seafarers to ships flying the flags of Member States for a period of at least eight years should be re-examined. The re-examination process should cover the possibility of retaining or withdrawing the recognition of the relevant third country. In addition, the information communicated by the Member States should also be used in order to prioritise the reassessment of the recognised third countries.
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↓ 2008/106/EC recital 20  
(adapted)

- (25) Member States, as port authorities, are required to enhance safety and ☒ the ☒ prevention of pollution in ☒ Union ☒ waters through priority inspection of vessels flying the flag of a third country which has not ratified the STCW Convention, thereby ensuring ☒ that ☒ vessels flying the flag of a third country ☒ do not enjoy a more favourable treatment ☒.
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↓ (EU) 2019/1159 recital 13  
(adapted)

- (26) The provisions for ☒ the ☒ recognition of professional qualifications set out in Directive 2005/36/EC of the European Parliament and of the Council<sup>12</sup> ☒ did not apply ☒ with regard to the recognition of ☒ seafarers' ☒ certificates under Directive 2008/106/EC. Directive 2005/45/EC of the European Parliament and of the Council<sup>13</sup> regulated the mutual recognition of seafarers' certificates issued by the Member States. However, the definitions of seafarers' certificates referred to in Directive 2005/45/EC ☒ became ☒ obsolete following the 2010 amendments to the

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<sup>11</sup> Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

<sup>12</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

<sup>13</sup> Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC (OJ L 255, 30.9.2005, p. 160).

STCW Convention. Therefore, the mutual recognition scheme of seafarers' certificates issued by Member States should be regulated so as to reflect the international amendments. In addition, the seafarers' medical certificates issued under the authority of Member States should also be included in the mutual recognition scheme. In order to avoid any ambiguity and the risk of inconsistencies between Directive 2005/45/EC and this Directive, the mutual recognition of seafarers' certificates should be regulated by this Directive only. Furthermore, in order to reduce the administrative burden on Member States, an electronic system for the presentation of seafarers' qualifications should be introduced once the relevant amendments to the STCW Convention have been adopted.

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↓ (EU) 2019/1159 recital 14  
(adapted)

- (27) Digitalisation of data is part and parcel of technological progress in the area of data collection and communication with a view to helping to bring down costs and making an efficient use of human resources. The Commission should consider measures in order to enhance the effectiveness of port State control, including, inter alia, an evaluation of the feasibility and added value of setting up and managing a central database of seafarers' certificates which would be linked to the inspection database referred to in Article 24 of Directive 2009/16/EC of the European Parliament and of the Council<sup>14</sup>, and to which all Member States would be connected. That central database should contain all the information, set out in Annex III to this Directive, on certificates of competency and endorsements attesting the recognition of certificates of proficiency issued in accordance with Regulations V/1-1 and V/1-2 of the STCW Convention.
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↓ (EU) 2019/1159 recital 11  
(adapted)

- (28) In order to take account of developments at international level and to ensure the timely adaptation of Union rules to such developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of incorporating amendments to the STCW Convention and Part A of the STCW Code by updating the technical requirements on the training and certification of seafarers and by aligning all the relevant provisions of this Directive in relation to the digital certificates for seafarers. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>15</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>14</sup> Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

<sup>15</sup> OJ L 123, 12.5.2016, p. 1.

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↓ (EU) 2019/1159 recital 12  
(adapted)

- (29) In order to ensure uniform conditions for the implementation of the provisions of this Directive concerning the recognition of third countries, ☒ as well as in relation to the statistical data on seafarers to be supplied by Member States to the Commission, ☒ implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>16</sup>.

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↓ 2012/35/EU recital 21 (adapted)

- (30) Since the objective of this Directive, namely the alignment of the rules of the Union with international rules on ☒ the ☒ training and certification of seafarers, cannot be sufficiently achieved by the Member States ☒ but ☒ can ☒ rather ☒, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary ☒ in order ☒ to achieve that objective.

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↓ 2008/106/EC recital 26  
(adapted)

- (31) This Directive should be without prejudice to the obligations of the Members States relating to the time-limits for ☒ the ☒ transposition into national law of the Directives set out in Annex IV, Part B,

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↓ 2008/106/EC (adapted)

HAVE ADOPTED THIS DIRECTIVE:

### *Article 1*

#### **Definitions**

For the purposes of this Directive ☒, the following definitions apply ☒:

- (1) ‘master’ means the person having command of a ship;
- (2) ‘officer’ means a member of the crew, other than the master, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom;
- (3) ‘deck officer’ means an officer qualified in accordance with the provisions of Chapter II of Annex I;

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<sup>16</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (4) 'chief mate' means the officer next in rank to the master upon whom the command of the ship will fall in the event of the incapacity of the master;
- (5) 'engineer officer' means an officer qualified in accordance with the provisions of Chapter III of Annex I;
- (6) 'chief engineer officer' means the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship;
- (7) 'second engineer officer' means the engineer officer next in rank to the chief engineer officer upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship will fall in the event of the incapacity of the chief engineer officer;
- (8) 'assistant engineer officer' means a person under training to become an engineer officer and designated as such by national law or regulations;
- (9) 'radio operator' means a person holding an appropriate certificate issued or recognised by the competent authorities under the provisions of the Radio Regulations;
- (10) 'rating' means a member of the ship's crew other than the master or an officer;
- (11) 'seagoing ship' means a ship other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- (12) 'ship flying the flag of a Member State' means a ship registered in and flying the flag of a Member State in accordance with its legislation; a ship not corresponding to this definition shall be regarded as a ship flying the flag of a third country;
- (13) 'near-coastal voyages' means voyages in the vicinity of a Member State as defined by that Member State;
- (14) 'propulsion power' means the total maximum continuous rated output power in kilowatts of all of a ship's main propulsion machinery which appears on the ship's certificate of registry or  on any  other official document;
- (15) 'oil-tanker' means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;
- (16) 'chemical tanker' means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the International Bulk Chemical Code, in its up-to-date version;
- (17) 'liquefied-gas tanker' means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in Chapter 19 of the International Gas Carrier Code, in its up-to-date version;

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↓ 2012/35/EU Art. 1.1(a)  
(adapted)

- (18) ‘Radio Regulations’ means the radio regulations annexed to, or regarded as being annexed to, the International Telecommunication Convention, as amended;
- (19) ‘passenger ship’ means a ship as defined in the  International Maritime Organization (IMO)  International Convention for the Safety of Life at Sea, 1974 (SOLAS 74), as amended;
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↓ 2008/106/EC (adapted)

- (20) ‘fishing vessel’  means  a vessel used for catching fish or other living resources of the sea;
- (21) ‘STCW Convention’ means the  International  Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978  of the IMO , as it applies to the matters concerned taking into account the transitional provisions of Article VII and Regulation I/15 of the Convention and including, where appropriate, the applicable provisions of the STCW Code, all being applied in their up-to-date versions;
- (22) ‘radio duties’ includes, as appropriate, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the SOLAS 74 and, at the discretion of each Member State, the relevant recommendations of the IMO, in their up-to-date versions;
- (23) ‘ro-ro passenger ship’ means a passenger ship with ro-ro cargo spaces or special-category spaces as defined in the SOLAS 74, in its up-to-date version;
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↓ 2012/35/EU Art. 1.1(b)  
(adapted)

- (24) ‘STCW Code’ means the Seafarers’ Training, Certification and Watchkeeping Code as adopted by  resolution 2 of  the 1995 Conference  of Parties to the STCW Convention , in its up-to-date version;
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↓ 2008/106/EC (adapted)

- (25) ‘function’ means a group of tasks, duties and responsibilities, as specified in the STCW Code, necessary for  the  ship operation, safety of life at sea or  the  protection of the marine environment;
- (26) ‘company’ means the owner of the ship or any other organisation or person such as the manager or the bareboat charterer who has assumed the responsibility for  the  operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by this Directive;

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↓ 2012/35/EU Art. 1.1(d)

- (27) ‘seagoing service’ means service on board a ship relevant to the issue or revalidation of a certificate of competency, certificate of proficiency or other qualification;
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↓ 2008/106/EC

- (28) ‘approved’ means approved by a Member State in accordance with this Directive;
- (29) ‘third country’ means any country which is not a Member State;
- (30) ‘month’ means a calendar month or 30 days made up of periods of less than one month;
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↓ 2012/35/EU Art. 1.1(e)  
(adapted)

- (31) ‘GMDSS radio operator’ means a person qualified in accordance with Chapter IV of Annex I;
- (32) ‘ISPS Code’ means the International Ship and Port Facility Security Code adopted on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the SOLAS 74, in its up-to-date version;
- (33) ‘ship security officer’ means the person on board a ship, accountable to the master, designated by the company as responsible for the security of the ship including implementation and maintenance of the ship security plan and liaison with the company security officer and port facility security officers;
- (34) ‘security duties’ include all security tasks and duties on board ships as defined by Chapter XI/2 of the SOLAS 74, as amended, and by the ISPS Code;
- (35) ‘certificate of competency’ means a certificate issued and endorsed for masters, officers and GMDSS radio operators in accordance with Chapters II, III, IV  , V  or VII of Annex I, and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein;
- (36) ‘certificate of proficiency’ means a certificate, other than a certificate of competency, issued to a seafarer stating that the relevant requirements of training, competencies or seagoing service in this Directive have been met;
- (37) ‘documentary evidence’ means documentation, other than a certificate of competency or certificate of proficiency, used to establish that the relevant requirements in this Directive have been met;
- (38) ‘electro-technical officer’ means an officer qualified in accordance with Chapter III of Annex I;
- (39) ‘able seafarer deck’ means a rating qualified in accordance with Chapter II of Annex I;

- (40) ‘able seafarer engine’ means a rating qualified in accordance with Chapter III of Annex I;
- (41) ‘electro-technical rating’ means a rating qualified in accordance with Chapter III of Annex I;
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↓ (EU) 2019/1159 Art. 1.1  
(adapted)

- (42) ‘host Member State’ means the Member State  where  seafarers seek acceptance or recognition of their certificates of competency, certificates of proficiency or documentary evidence;
- (43) ‘IGF Code’ means the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels, as defined in SOLAS 74 Regulation II-1/2.29;
- (44) ‘Polar Code’ means the International Code for Ships Operating in Polar Waters, as defined in SOLAS 74, Regulation XIV/1.1;
- (45) ‘Polar waters’ means Arctic waters and/or the Antarctic area, as defined in SOLAS 74 Regulations XIV/1.2, XIV/1.3 and XIV/1.4.
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↓ 2008/106/EC

## Article 2

### Scope

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↓ (EU) 2019/1159 Art. 1.2(a)  
(adapted)

1. This Directive applies to the seafarers  referred to  in this Directive serving on board seagoing ships flying the flag of a Member State with the exception of:

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↓ 2008/106/EC

- (a) warships, naval auxiliaries or other ships owned or operated by a Member State and engaged only on government non-commercial service;
- (b) fishing vessels;
- (c) pleasure yachts not engaged in trade;
- (d) wooden ships of primitive build.
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↓ (EU) 2019/1159 Art. 1.2(b)

2. Article 6 applies to seafarers who hold a certificate issued by a Member State, regardless of their nationality.

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↓ 2008/106/EC

*Article 3*

**Training and certification**

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↓ 2012/35/EU Art. 1.2 (adapted)

1. Member States shall take the  necessary  measures to ensure that seafarers serving on ships as referred to in Article 2 are trained as a minimum in accordance with the requirements of the STCW Convention, as laid down in Annex I to this Directive, and hold certificates as defined in points (35) and (36) of Article 1, and/or documentary evidence as defined in point (37) of Article 1.

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↓ 2008/106/EC (adapted)

2. Member States shall take the  necessary  measures to ensure that those crew members that must be certified in accordance with Regulation III/10.4 of the SOLAS 74 are trained and certificated in accordance with this Directive.

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↓ 2008/106/EC

*Article 4*

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↓ 2012/35/EU Art. 1.4(a)

**Certificates of competency, certificates of proficiency and endorsements**

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↓ 2012/35/EU Art. 1.4(b)

1. Member States shall ensure that certificates of competency and certificates of proficiency are issued only to candidates who comply with the requirements of this Article.

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↓ 2008/106/EC (adapted)

2. Certificates for masters, officers and radio operators shall be endorsed by the Member State as  provided for  in this Article.

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↓ 2012/35/EU Art. 1.4(c)

3. Certificates of competency and certificates of proficiency shall be issued in accordance with Regulation I/2, paragraph 3, of the Annex to the STCW Convention.



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↓ 2012/35/EU Art. 1.4(d)

4. Certificates of competency shall be issued only by the Member States, following verification of the authenticity and validity of any necessary documentary evidence and in accordance with the provisions laid down in this Article.

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↓ 2008/106/EC

5. In respect of radio operators, Member States may:

- (a) include the additional knowledge required by the relevant regulations in the examination for the issue of a certificate complying with the Radio Regulations; or
- (b) issue a separate certificate indicating that the holder has the additional knowledge required by the relevant regulations.

6. At the discretion of a Member State, endorsements may be incorporated in the format of the certificates being issued as provided for in Section A-I/2 of the STCW Code. If so incorporated, the form used shall be that set out in Section A-I/2, paragraph 1. If issued otherwise, the form of endorsements used shall be that set out in paragraph 2 of that Section. Endorsements shall be issued in accordance with Article VI, paragraph 2, of the STCW Convention.

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↓ 2012/35/EU Art. 1.4(e)  
(adapted)

Endorsements attesting the issue of a certificate of competency and endorsements attesting a certificate of proficiency issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of Annex I shall be issued only if all the requirements of the STCW Convention and this Directive have been complied with.

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↓ 2012/35/EU Art. 1.4(f)  
(adapted)

7 A Member State which recognises a certificate of competency, or a certificate of proficiency, issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of the Annex to the STCW Convention under the procedure laid down in Article 20(2) of this Directive shall endorse that certificate to attest its recognition only after ensuring the authenticity and validity of the certificate. The form of the endorsement used shall be that set out in paragraph 3 of Section A-I/2 of the STCW Code.

8. The endorsements referred to in paragraphs 6 and 7:

- (a) may be issued as separate documents;
- (b) shall  only  be issued by Member States;
- (c) shall each be assigned a unique number, except for endorsements attesting the issue of a certificate of competency, which may be assigned the same number as the certificate of competency concerned, provided that that number is unique;

- (d) shall each expire as soon as the endorsed certificate of competency or certificate of proficiency issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of the Annex to the STCW Convention expires or is withdrawn, suspended or cancelled by the Member State or third country which issued it and, in any case, within five years of their date of issue.
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↓ 2008/106/EC (adapted)

9. The capacity in which the holder of a certificate is authorised to serve shall be identified in the form of endorsement in terms identical to those used in the applicable safe-manning requirements of the Member State concerned.

10. A Member State may use a format  that is  different from the format laid down in Section A-I/2 of the STCW Code, provided that, as a minimum, the required information is provided in Roman characters and Arabic figures, taking account of the variations permitted under Section A-I/2.

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↓ (EU) 2019/1159 Art. 1.3(a)

11. Subject to Article 20(7), any certificate required by this Directive shall be kept available in its original form on board the ship on which the holder is serving, in a hard copy or in a digital format, the authenticity and validity of which may be verified under the procedure laid down in point (b) of paragraph 13 of this Article.

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↓ 2012/35/EU Art. 1.4(g)  
(adapted)

12. Candidates for certification shall provide satisfactory proof:

- (a) of their identity;
- (b) that their age is not less than that prescribed in the Regulations listed in Annex I relevant to the certificate of competency or certificate of proficiency applied for;
- (c) that they meet the standards of medical fitness, specified in Section A-I/9 of the STCW Code;
- (d) that they have completed the seagoing service and any related compulsory training prescribed in the Regulations listed in Annex I for the certificate of competency or certificate of proficiency applied for;
- (e) that they meet the standards of competence prescribed in the Regulations listed in Annex I for the capacities, functions and levels that are to be identified in the endorsement of the certificate of competency.

This paragraph shall not apply to  the  recognition of endorsements under Regulation I/10 of the STCW Convention.

13. Each Member State shall undertake:

- (a) to maintain a register or registers of all certificates of competency and certificates of proficiency and endorsements for masters and officers and, where applicable, ratings which are issued, have expired or have been revalidated, suspended, cancelled or reported as lost or destroyed, as well as of dispensations issued;
- (b) to make available information on the status of certificates of competency, endorsements and dispensations to other Member States or other Parties to the STCW Convention and companies which request verification of the authenticity and validity of certificates of competency and/or certificates issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of Annex I produced to them by seafarers seeking recognition, under Regulation I/10 of the STCW Convention, or employment on board ship.

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↓ (EU) 2019/1159 Art. 1.3(b)

14. When relevant amendments to the STCW Convention and Part A of the STCW Code related to digital certificates for seafarers come into force, the Commission is empowered to adopt delegated acts in accordance with Article 30 to amend this Directive by aligning all the relevant provisions thereof with those amendments to the STCW Convention and Part A of the STCW Code in order to digitalise the seafarers' certificates and endorsements.

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↓ (EU) 2019/1159 Art. 1.4  
(adapted)

#### *Article 5*

##### **Information to the Commission**

For the purposes of  Articles  21(8) and 22(2) and exclusively for use by the Member States and the Commission for policy-making and statistical purposes, Member States shall submit to the Commission, on a yearly basis, the information listed in Annex III to this Directive on certificates of competency and endorsements attesting the recognition of certificates of competency. They may also provide, on a voluntary basis, information on certificates of proficiency issued to ratings in accordance with Chapters II, III and VII of the Annex to the STCW Convention, such as the information indicated in Annex III to this Directive.

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↓ (EU) 2019/1159 Art. 1.5  
(adapted)

#### *Article 6*

##### **Mutual recognition of seafarers' certificates issued by Member States**

1. Every Member State shall accept certificates of proficiency and documentary evidence issued by another Member State, or under its authority, in hard copy or in digital format, for the purpose of allowing seafarers to serve on ships flying its flag.

2. Every Member State shall recognise certificates of competency issued by another Member State or certificates of proficiency issued by another Member State to masters and officers in accordance with Regulations V/1-1 and V/1-2 of Annex I to this Directive, by endorsing those certificates to attest their recognition. The endorsement attesting the recognition shall be limited to the capacities, functions and levels of competency or proficiency prescribed therein. The endorsement shall only be issued if all  the  requirements of the STCW Convention have been complied with, in accordance with Regulation I/2, paragraph 7, of the STCW Convention. The form of the endorsement used shall be that set out in Section A-I/2, paragraph 3, of the STCW Code.

3. Every Member State shall accept, for the purpose of allowing seafarers to serve on ships flying its flag, medical certificates issued under the authority of another Member State in accordance with Article 12.

4. The host Member States shall ensure that the decisions referred to in paragraphs 1, 2 and 3 are issued within a reasonable time. The host Member States shall also ensure that seafarers have the right to appeal against any refusal to endorse or accept a valid certificate, or the absence of any response, in accordance with national legislation and procedures and that seafarers are provided with adequate advice and assistance regarding such appeals in accordance with established national legislation and procedures.

5. Without prejudice to paragraph 2 of this Article, the competent authorities of a host Member State may impose further limitations on capacities, functions and levels of competence or proficiency relating to near-coastal voyages, as referred to in Article 8, or alternative certificates issued under Regulation VII/1 of Annex I.

6. Without prejudice to paragraph 2, a host Member State may, where necessary, allow a seafarer to serve, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed by another Member State, but not yet endorsed for recognition by the host Member State concerned.

Documentary proof that an application for endorsement has been submitted to the competent authorities shall be readily available.

7. A host Member State shall ensure that seafarers who present for recognition certificates for functions at management level have appropriate knowledge of the maritime legislation of that Member State relevant to the functions that they are permitted to perform.

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↓ 2008/106/EC
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#### *Article 7*

### **Training requirements**

The training required pursuant to Article 3 shall be in a form appropriate to the theoretical knowledge and practical skills required by Annex I, in particular the use of life saving and fire-fighting equipment, and approved by the competent authority or body designated by each Member State.

## Article 8

### Principles governing near-coastal voyages

1. When defining near-coastal voyages Member States shall not impose training, experience or certification requirements on seafarers serving on board ships entitled to fly the flag of another Member State or another Party to the STCW Convention and engaged in such voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board ships entitled to fly their own flag. In no case shall a Member State impose requirements in respect of seafarers serving on board ships flying the flag of another Member State or of another Party to the STCW Convention in excess of those of this Directive in respect of ships not engaged in near-coastal voyages.

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↓ 2012/35/EU Art. 1.6(a)  
(adapted)

2. A Member State  which , for ships afforded the benefits of the near-coastal voyage provisions of the STCW Convention, includes voyages off the coast of other Member States or of Parties to the STCW Convention within the limits of  its definition of  near-coastal  voyages  shall enter into an undertaking with the Member States or Parties concerned specifying both the details of the trading areas involved and other relevant provisions.

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↓ 2008/106/EC

3. With respect to ships entitled to fly the flag of a Member State regularly engaged in near-coastal voyages off the coast of another Member State or of another Party to the STCW Convention, the Member State the flag of which a ship is entitled to fly shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Member State or the Party to the STCW Convention off the coast of which the ship is engaged, provided that they do not exceed the requirements of this Directive in respect of ships not engaged in near-coastal voyages. Seafarers serving on a ship which extends its voyage beyond what is defined as a near-coastal voyage by a Member State and enters waters not covered by that definition shall fulfil the appropriate requirements of this Directive.

4. A Member State may afford a ship which is entitled to fly its flag the benefits of the near-coastal voyage provisions of this Directive when it is regularly engaged off the coast of a non-Party to the STCW Convention on near-coastal voyages as defined by that Member State.

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↓ 2012/35/EU Art. 1.6(b)  
(adapted)

5. The certificates of competency of seafarers issued by a Member State or a Party to the STCW Convention for its defined near-coastal voyage limits may be accepted by other Member States for service in their defined near-coastal voyage limits, provided  that  the Member States or Parties concerned enter into an undertaking specifying the details of the trading areas involved and other relevant conditions thereof.

6. Member States defining near-coastal voyages, in accordance with the requirements of this Article, shall:

- (a) meet the principles governing near-coastal voyages specified in Section A-I/3 of the STCW Code;
- (b) incorporate the near-coastal voyage limits in the endorsements issued pursuant to Article 4.

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↓ 2008/106/EC

7. Upon deciding on the definition of near-coastal voyages and the conditions of education and training required thereof in accordance with the requirements of paragraphs 1, 3 and 4, Member States shall communicate to the Commission the details of the provisions they have adopted.

### *Article 9*

#### **Prevention of fraud and other unlawful practices**

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↓ 2012/35/EU Art. 1.7

1. Member States shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving certificates and endorsements issued, and shall provide for penalties that are effective, proportionate and dissuasive.

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↓ 2008/106/EC

2. Member States shall designate the national authorities competent to detect and combat fraud and other unlawful practices and exchange information with the competent authorities of other Member States and of third countries concerning the certification of seafarers.

Member States shall forthwith inform the other Member States and the Commission of the details of such competent national authorities.

Member States shall also forthwith inform any third countries with which they have entered into an undertaking in accordance with Regulation I/10, paragraph 1.2, of the STCW Convention of the details of such competent national authorities.

3. At the request of a host Member State, the competent authorities of another Member State shall provide written confirmation or denial of the authenticity of seafarers' certificates, corresponding endorsements or any other documentary evidence of training issued in that other Member State.

### Penalties or disciplinary measures

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↓ 2012/35/EU Art. 1.8(a)  
(adapted)

1. Member States shall establish processes and procedures for the impartial investigation of any reported incompetence, act, omission or compromise to security that may pose a direct threat to ~~the~~ the ~~safety~~ safety of life or property at sea or to the marine environment on the part of the holders of certificates of competency and certificates of proficiency or endorsements issued by that Member State in connection with their performance of duties relating to their certificates of competency and certificates of proficiency and for the withdrawal, suspension and cancellation of such certificates of competency and certificates of proficiency for such cause and for the prevention of fraud.

2. Member States shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving certificates of competency and certificates of proficiency and endorsements issued.

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↓ 2008/106/EC (adapted)  
→<sub>1</sub> 2012/35/EU Art. 1.8(b)

3. →<sub>1</sub> Penalties or disciplinary measures shall be prescribed and enforced in cases ~~where~~ where ~~the~~: ←

- (a) a company or a master has engaged a person not holding a certificate as required by this Directive;
- (b) a master has allowed any function or service in any capacity which under this Directive must be performed by a person holding an appropriate certificate to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by Article 20(7); or
- (c) a person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity which under this Directive must be performed or fulfilled by a person holding a certificate or dispensation.

4. Member States within the jurisdiction of which any company which, or any person who, is believed on clear grounds to have been responsible for, or to have knowledge of, any apparent non-compliance with this Directive specified in paragraph 3 is located shall extend cooperation to any Member State or other Party to the STCW Convention which advises them of its intention to initiate proceedings under its jurisdiction.

## Article 11

### Quality standards

1. Each Member State shall ensure that:

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↓ 2012/35/EU Art. 1.9(a)

- (a) all training, assessment of competence, certification, including medical certification, endorsement and revalidation activities carried out by non-governmental agencies or entities under their authority are continuously monitored through a quality standards system to ensure the achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors, in accordance with Section A-I/8 of the STCW Code;
  - (b) where governmental agencies or entities perform such activities, there is a quality standards system in accordance with Section A-I/8 of the STCW Code;
  - (c) education and training objectives and related quality standards of competence to be achieved are clearly defined and that the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the STCW Convention are identified;
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↓ 2008/106/EC (adapted)

- (d) the fields of application of the quality standards cover the administration of the certification systems, all training courses and programmes, examinations and assessments carried out by or under the authority of each Member State and the qualifications and experience required of instructors and assessors, having regard to the policies, systems, controls and internal quality-assurance reviews established to ensure  the  achievement of the defined objectives.

The objectives and related quality standards referred to in point (c) of the first subparagraph may be specified separately for different courses and training programmes and shall cover the administration of the certification system.

2. Member States shall also ensure that independent evaluations of the knowledge, understanding, skills and competence acquisition and assessment activities and of the administration of the certification system are conducted at intervals of not more than five years by qualified persons who are not themselves involved in the activities concerned in order to verify that:

- (a) all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documental procedures and are effective in ensuring that the defined objectives are achieved;
- (b) the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated;
- (c) timely action is taken to correct deficiencies;



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↓ 2012/35/EU Art. 1.9(b)

- (d) all applicable provisions of the STCW Convention and Code, including amendments, are covered by the quality standards system. Member States may also include within this system the other applicable provisions of this Directive.
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↓ 2012/35/EU Art. 1.9(c)  
(adapted)

3. A report relating to each evaluation carried out pursuant to paragraph 2  of this Article  shall be communicated by the Member State concerned to the Commission, in accordance with the format specified in Section A-I/7 of the STCW Code, within six months of the date of the evaluation.

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↓ 2012/35/EU Art. 1.10 (adapted)

## *Article 12*

### **Medical standards**

1. Each Member State shall establish standards of medical fitness for seafarers and procedures for the issue of a medical certificate in accordance with this Article and Section A-I/9 of the STCW Code, taking into account, as appropriate, Section B-I/9 of the STCW Code.
2. Each Member State shall ensure that those responsible for assessing the medical fitness of seafarers are medical practitioners recognised by that Member State for the purpose of  seafarers  medical examinations, in accordance with Section A-I/9 of the STCW Code.
3. Every seafarer holding a certificate of competency or a certificate of proficiency, issued under the provisions of the STCW Convention, who is serving at sea shall also hold a valid medical certificate issued in accordance with this Article and Section A-I/9 of the STCW Code.
4. Candidates for medical certification shall:
  - (a) be not less than 16 years of age;
  - (b) provide satisfactory proof of their identity;
  - (c) meet the applicable medical fitness standards established by the Member State concerned.
5. Medical certificates shall remain valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year.
6. If the period of validity of a medical certificate expires in the course of a voyage, Regulation I/9 of the Annex to the STCW Convention shall apply.

7. In urgent cases, a Member State may permit a seafarer to work without a valid medical certificate. In such cases, Regulation I/9 of the Annex to the STCW Convention shall apply.

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↓ 2008/106/EC

*Article 13*

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↓ 2012/35/EU Art. 1.11(a)

**Revalidation of certificates of competency and certificates of proficiency**

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↓ (EU) 2019/1159 Art. 1.6(a)  
(adapted)

1. Every master, officer and radio operator holding a certificate issued or recognised under any Chapter of Annex I other than Regulation V/3 of Chapter V or Chapter VI who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for seagoing service, be required at intervals not exceeding five years:

- (a) to meet the standards of medical fitness prescribed by Article 12;
  - (b) to establish continued professional competence in accordance with Section A-I/11 of the STCW Code.
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↓ 2008/106/EC (adapted)

2. Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, successfully complete  the  approved relevant training.

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↓ 2012/35/EU Art. 1.11(b)  
(adapted)

3. Every master  or  officer shall, for continuing seagoing service on board tankers, meet the requirements of paragraph 1 of this Article and be required, at intervals not exceeding five years, to establish continued professional competence for tankers in accordance with paragraph 3 of Section A-I/11 of the STCW Code.

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↓ (EU) 2019/1159 Art. 1.6(b)

4. Every master or officer shall, for continuing seagoing service on board ships operating in polar waters, meet the requirements of paragraph 1 of this Article and shall be required, at intervals not exceeding five years, to establish continued professional competence for ships operating in polar waters in accordance with Section A-I/11, paragraph 4, of the STCW Code.

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↓ (EU) 2019/1159 Art. 1.6(c)  
(adapted)

5. Each Member State shall compare the standards of competence which are required of candidates for certificates of competency and/or certificates of proficiency issued until 1 January 2017 with those specified for the relevant certificate of competency and/or  certificate of  proficiency in Part A of the STCW Code, and shall determine the need  for requiring  the holders of such certificates of competency and/or certificates of proficiency to undergo appropriate refresher and updating training or assessment.

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↓ (EU) 2019/1159 Art. 1.6(d)  
(adapted)

6.  Each  Member State shall compare the standards of competence which it required of persons serving on gas-fuelled ships before 1 January 2017 with the standards of competence in Section A-V/3 of the STCW Code, and shall determine the need, if any, for requiring those persons to update their qualifications.

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↓ 2008/106/EC

7. Each Member State shall, in consultation with those concerned, formulate or promote the formulation of a structure of refresher and updating courses as provided for in Section A-I/11 of the STCW Code.

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↓ 2012/35/EU Art. 1.11(d)  
(adapted)

8. For the purpose of updating the knowledge of masters, officers and radio operators, each Member State shall ensure that the texts of recent changes in national and international regulations concerning the safety of life at sea, security and the protection of the marine environment are made available to ships entitled to fly its flag, while  complying with  point (b) of Article 15(3) and Article 19.

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↓ 2008/106/EC

#### *Article 14*

##### **Use of simulators**

The performance standards and other provisions set out in Section A-I/12 of the STCW Code and such other requirements as are prescribed in Part A of the STCW Code for any certificate concerned shall be complied with in respect of:

- (a) all mandatory simulator-based training;
- (b) any assessment of competence required by Part A of the STCW Code which is carried out by means of a simulator;

- (c) any demonstration, by means of a simulator, of continued proficiency required by Part A of the STCW Code.

### *Article 15*

#### **Responsibilities of companies**

1. In accordance with paragraphs 2 and 3, Member States shall hold companies responsible for the assignment of seafarers for service in their ships in accordance with this Directive, and shall require every company to ensure that:

- (a) each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of this Directive and as established by the Member State;
- (b) its ships are manned in accordance with the applicable safe-manning requirements of the Member State;
- (c) documentation and data relevant to all seafarers employed on its ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competence in assigned duties;
- (d) on being assigned to any of its ships seafarers are familiarised with their specific duties and with all ship arrangements, installations, equipment, procedures, and ship characteristics that are relevant to their routine or emergency duties;
- (e) the ship's complement can effectively coordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution;

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↓ 2012/35/EU Art. 1.13(a)

- (f) seafarers assigned to any of its ships have received refresher and updating training as required by the STCW Convention;
- (g) at all times on board its ships there shall be effective oral communication in accordance with Chapter V, Regulation 14, paragraphs 3 and 4, of the SOLAS 74, as amended.

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↓ 2008/106/EC (adapted)

2. Companies, masters and crew members shall each have responsibility for ensuring that the obligations set out in this Article are given full and complete effect and that such other measures as may be necessary are taken to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of the ship.

3. The company shall provide written instructions to the master of each ship to which this Directive applies, setting out the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements

needed for the proper performance of their duties, before being assigned to those duties. Such policies and procedures shall include:

- (a) the allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with:
  - (i) the specific equipment the seafarer will be using or operating;
  - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly;
- (b) the designation of a knowledgeable crew member who will be responsible for ensuring that each newly employed seafarer is given an opportunity to receive essential information in a language the seafarer understands.

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↓ 2012/35/EU Art. 1.13(b)

4. Companies shall ensure that masters, officers and other personnel assigned specific duties and responsibilities on board their ro-ro passenger ships shall have completed familiarisation training to attain the abilities that are appropriate to the capacity to be filled and duties and responsibilities to be taken up, taking into account the guidance given in Section B-I/14 of the STCW Code.

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↓ 2012/35/EU Art. 1.14 (adapted)

### *Article 16*

#### **Fitness for duty**

1. For the purpose of preventing fatigue, Member States shall:

- (a) establish and enforce rest periods for watchkeeping personnel and those whose duties involve designated safety, security and prevention of pollution duties in accordance with paragraphs 3 to 13;
- (b) require that watch systems are arranged in such a way that the efficiency of watchkeeping personnel is not impaired by fatigue, and that duties are organised in such a way that the first watch at the start of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

2. Member States shall, for the purpose of preventing drug and alcohol abuse, ensure that adequate measures are established in accordance with the provisions laid down in this Article.

3. Member States shall take account of the danger posed by fatigue of seafarers, especially those whose duties involve the safe and secure operation of a ship.

4. All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch, and those whose duties involve designated safety, prevention of pollution and security duties shall be provided with a rest period of not less than:

- (a) a minimum of 10 hours of rest in any 24-hour period; and
- (b) 77 hours in any seven-day period.

5. The hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the intervals between consecutive periods of rest shall not exceed 14 hours.

6. The requirements for rest periods laid down in paragraphs 4 and 5 need not be maintained in the case of an emergency or in other overriding operational conditions. Musters, firefighting and lifeboat drills and drills prescribed by national laws and regulations and by international instruments shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

7. Member States shall require that watch schedules be posted where they are easily accessible. The schedules shall be established in a standardised format in the working language or languages of the ship and in English.

8. When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

9. Member States shall require that records of  the  daily hours of rest of seafarers be maintained in a standardised format, in the working language or languages of the ship and in English, to allow monitoring and verification of compliance with this Article. Seafarers shall receive a copy of the records pertaining to them, which shall be endorsed by the master, or by a person authorised by the master, and by the seafarers.

10. Notwithstanding the rules laid down in paragraphs 3 to 9, the master of a ship shall be entitled to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

11. With due regard for the general principles of the protection of the health and safety of workers and in line with Directive 1999/63/EC Member States may, by means of national laws, regulations or a procedure for the competent authority, authorise or register collective agreements permitting exceptions to the required hours of rest set out in point (b) of paragraph 4 and in paragraph 5 of this Article, provided that the rest period is  not  less than 70 hours in any seven-day period and respects the limits set out in paragraphs 12 and 13 of this Article. Such exceptions shall, as far as possible, follow the standards set out but may take account of more frequent or longer leave periods, or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages. Exceptions shall, as far as possible, take into account the guidance regarding  the  prevention of

fatigue laid down in Section B-VIII/1 of the STCW Code. Exceptions to the minimum hours of rest provided for in point (a) of paragraph 4 of this Article shall not be allowed.

12.  The  exceptions referred to in paragraph 11 to the weekly rest period provided for in point (b) of paragraph 4 shall not be allowed for more than two consecutive weeks. The intervals between two periods of exceptions on board shall not be less than twice the duration of the exception.

13. In the framework of possible exceptions to paragraph 5 referred to in paragraph 11, the minimum hours of rest in any 24-hour period provided for in point (a) of paragraph 4 may be divided into no more than three periods of rest, one of which shall be at least six hours in length and neither of the two other periods shall be less than one hour in length. The intervals between consecutive periods of rest shall not exceed 14 hours. Exceptions shall not extend beyond two 24-hour periods in any seven-day period.

14. Member States shall establish, for the purpose of preventing alcohol abuse, a limit of not greater than 0,05 % blood alcohol level (BAC) or 0,25 mg/l alcohol in the breath or a quantity of alcohol leading to such alcohol concentration for masters, officers and other seafarers while performing designated safety, security and marine environmental duties.

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↓ 2008/106/EC (adapted)
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### *Article 17*

#### **Dispensation**

1. In circumstances of exceptional necessity, competent authorities may, if in their opinion this does not cause danger to persons, property or the environment, issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity other than that of the radio operator, except as provided by the relevant Radio Regulations, for which he or she does not hold the appropriate certificate, provided that the person to whom the dispensation is issued  is  adequately qualified to fill the vacant post in a safe manner to the satisfaction of the competent authorities. However, dispensations shall not be granted to a master or chief engineer officer, except in circumstances of force majeure and then only for the shortest possible period.

2. Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the competent authorities, of a clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he or she  is  required to pass a test accepted by the competent authorities as demonstrating that such a dispensation may safely be issued. In addition, the competent authorities shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible.

## Article 18

### Responsibilities of Member States with regard to training and assessment

1. Member States shall designate the authorities or bodies which shall:

- (a) give the training referred to in Article 3;
- (b) organise and/or supervise the examinations where required;

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↓ 2012/35/EU Art. 1.15
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- (c) issue the certificates referred to in Article 4;

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↓ 2008/106/EC (adapted)
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- (d) grant the dispensations provided for in Article 17.

2. Member States shall ensure that:

- (a) all training and assessment of seafarers is:
  - (i) structured in accordance with the written programmes, including such methods and media of delivery, procedures and course material as are necessary to achieve the prescribed standard of competence;
  - (ii) conducted, monitored, evaluated and supported by persons qualified in accordance with points (d), (e) and (f);
- (b) persons conducting in-service training or assessment on board ship do so only when such training or assessment will not adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment;
- (c) instructors, supervisors and assessors are appropriately qualified for the particular types and levels of training or assessment of competence of seafarers either on board or ashore;
- (d) any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under this Directive:
  - (i) has an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;
  - (ii) is qualified in the task for which training is being conducted;
  - (iii) if conducting training using a simulator:
    - has received appropriate guidance in instructional techniques involving the use of simulators, and
    - has gained practical operational experience on the particular type of simulator being used;



- (e) any person responsible for the supervision of the in-service training of a seafarer intended to be used in qualifying for certification has a full understanding of the training programme and the specific objectives for each type of training being conducted;
- (f) any person conducting in-service assessment of the competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under this Directive:
  - (i) has an appropriate level of knowledge and understanding of the competence to be assessed;
  - (ii) is qualified in the task for which the assessment is being made;
  - (iii) has received appropriate guidance in assessment methods and practice;
  - (iv) has gained practical assessment experience;
  - (v) if conducting  an  assessment involving the use of simulators, has gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor;
- (g) when a Member State recognises a course of training, a training institution, or a qualification granted by a training institution as part of its requirements for the issue of a certificate, the qualifications and experience of instructors and assessors are covered in the application of the quality standard provisions of Article 11; such qualification, experience and application of quality standards shall incorporate appropriate training in instructional techniques and training and assessment methods and practice and comply with all applicable requirements of points (d), (e) and (f)  of this paragraph .

### *Article 19*

#### **On-board communication**

Member States shall ensure that:

- (a) without prejudice to points (b) and (d), there are at all times, on board all ships flying the flag of a Member State, means in place for effective oral communication relating to safety between all members of the ship's crew, particularly with regard to the correct and timely reception and understanding of messages and instructions;
- (b) on board all passenger ships flying the flag of a Member State and on board all passenger ships starting and/or finishing a voyage in a Member State port, in order to ensure effective crew performance in safety matters, a working language is established and recorded in the ship's log-book;

the company or the master, as appropriate, shall determine the appropriate working language; each seafarer shall be required to understand and, where appropriate, give orders and instructions and report back in that language;

if the working language is not an official language of the Member State, all plans and lists that must be posted shall include translations into the working language;

- (c) on board passenger ships, personnel nominated on muster lists to assist passengers in emergency situations are readily identifiable and have communication skills that are sufficient for that purpose, taking into account an appropriate and adequate combination of any of the following factors:
- (i) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
  - (ii) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need of assistance whether or not the passenger and crew member share a common language;
  - (iii) the possible need to communicate during an emergency by some other means ( for example,  by demonstration, hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes) when verbal communication is impractical;
  - (iv) the extent to which complete safety instructions have been provided to passengers in their native language or languages;
  - (v) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers;
- (d) on board oil tankers, chemical tankers and liquefied gas tankers flying the flag of a Member State, the master, officers and  ratings  are able to communicate with each other in a common working language(s);
- (e) there are adequate means for communication between the ship and the shore-based authorities; these communications shall be conducted in accordance with Chapter V, Regulation 14, paragraph 4, of the SOLAS 74;
- (f) when carrying out port State control under Directive 2009/16/EC, Member States also check that ships flying the flag of a State other than a Member State comply with this Article.

#### *Article 20*

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2012/35/EU Art. 1.16(a)

#### **Recognition of certificates of competency and certificates of proficiency**

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2012/35/EU Art. 1.16(b)  
(adapted)

1. Seafarers who do not possess the certificates of competency issued by Member States or the certificates of proficiency issued by Member States to masters and officers in accordance

with Regulations V/1-1 and V/1-2 of the STCW Convention may be allowed to serve on ships flying the flag of a Member State provided that a decision on the recognition of their certificates of competency  or  certificates of proficiency has been adopted through the procedures set out in paragraphs 2 to 6 of this Article.

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↓ (EU) 2019/1159 Art. 1.7  
(adapted)

2. A Member State which intends to recognise, by endorsement, the certificates of competency or the certificates of proficiency referred to in paragraph 1 of this Article issued by a third country to a master, officer or radio operator, for service on ships flying its flag, shall submit a request to the Commission for the recognition of that third country, accompanied by a preliminary analysis of the third country's compliance with the requirements of the STCW Convention by collecting the information referred to in Annex II to this Directive. In that preliminary analysis, further information on the reasons for recognition of the third country shall be provided by the Member State, in support of its request.

Following the submission of such a request by a Member State, the Commission shall process that request  without delay  and shall decide, in accordance with the examination procedure referred to in Article 31(2), on the initiation of the assessment of the training and certification system in the third country within a reasonable time with due regard to the time limit set out in paragraph 3 of this Article.

When a positive decision for initiating the assessment has been adopted, the Commission, assisted by the European Maritime Safety Agency and with the possible involvement of the Member State submitting the request and any other interested Member States, shall collect the information referred to in Annex II to this Directive and shall carry out an assessment of the training and certification systems in the third country for which the request for recognition was submitted, in order to verify that the  third  country concerned meets all the requirements of the STCW Convention and that appropriate measures have been taken to prevent  the  issuance of fraudulent certificates, and to consider whether it has ratified the Maritime Labour Convention, 2006.

3. Where, as a result of the assessment referred to in paragraph 2 of this Article, the Commission concludes that all those requirements are fulfilled, it shall adopt implementing acts laying down its decision on the recognition of a third country. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2), within 24 months of the submission of the request by a Member State referred to in paragraph 2 of this Article.

Where  the third country concerned needs to implement major corrective actions, including amendments to its legislation, its education, training and certification system in order to meet the requirements of the STCW Convention, the implementing acts referred to in the first subparagraph of this paragraph shall be adopted within 36 months of the submission of the request by a Member State referred to in paragraph 2 of this Article.

The Member State submitting that request may decide to recognise the third country unilaterally until an implementing act is adopted pursuant to this paragraph. In  the  case of such a unilateral recognition, the Member State shall communicate to the Commission the number of endorsements attesting recognition issued in relation to certificates of

competency and certificates of proficiency referred to in paragraph 1, issued by the third country until the implementing act regarding the recognition of that third country is adopted.

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↓ 2008/106/EC (adapted)

4. A Member State may decide, with respect to ships flying its flag, to endorse certificates issued by the third countries recognised by the Commission, account being taken of the provisions  laid down  in points (4) and (5) of Annex II.

5. Recognitions of certificates issued by recognised third countries and published in the *Official Journal of the European Union*, C series, before 14 June 2005 shall remain valid.

Those  recognitions may be used by all Member States unless the Commission has subsequently withdrawn them pursuant to Article 21.

6. The Commission shall draw up and update a list of the third countries that have been recognised. The list shall be published in the *Official Journal of the European Union*, C series.

7. Notwithstanding Article 4(7), a Member State may, if circumstances require, allow a seafarer to serve in a capacity other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed as required by a third country, but not yet endorsed for recognition by the Member State concerned so as to render it appropriate for service on board a ship flying its flag.

Documentary proof that  an  application for an endorsement has been submitted to the competent authorities  shall be kept readily available .

#### Article 21

#### **Non-compliance with the requirements of the STCW Convention**

1. Notwithstanding the criteria specified in Annex II, when a Member State considers that a recognised third country no longer complies with the requirements of the STCW Convention it shall notify the Commission immediately, giving substantiated reasons therefor.

The Commission shall refer the matter to the Committee referred to in Article 31(1)  without delay .

2. Notwithstanding the criteria set out in Annex II, when the Commission considers that a recognised third country no longer complies with the requirements of the STCW Convention it shall notify the Member States immediately, giving substantiated reasons therefor.

The Commission shall refer the matter to the Committee referred to in Article 31(1)  without delay .

3. When a Member State intends to withdraw the endorsements of all certificates issued by a third country it shall inform the Commission and the other Member States of its intention  without delay , giving substantiated reasons therefor.

4. The Commission, assisted by the European Maritime Safety Agency, shall reassess the recognition of the third country concerned in order to verify whether that  third  country failed to comply with the requirements of the STCW Convention.

5. Where there are indications that a particular maritime training establishment no longer complies with the requirements of the STCW Convention, the Commission shall notify the  third  country concerned that recognition of that  third  country's certificates will be withdrawn in two months' time unless measures are taken to ensure compliance with all the requirements of the STCW Convention.

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↓ 2012/35/EU Art. 1.17

6. The decision on the withdrawal of the recognition shall be taken by the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2). The Member States concerned shall take appropriate measures to implement the decision.

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↓ 2008/106/EC (adapted)

7. Endorsements attesting recognition of certificates, issued in accordance with Article 4(7) before the date on which the decision to withdraw recognition of the third country is taken, shall remain valid.  However,  seafarers holding such endorsements may not claim an endorsement recognising a higher qualification, unless that upgrading is based solely on additional seagoing service experience.

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↓ (EU) 2019/1159 Art. 1.8  
(adapted)

8. If there are no endorsements attesting recognition issued by a Member State in relation to certificates of competency or certificates of proficiency, referred to in Article 20(1), issued by a third country for a period of more than eight years, the recognition of that  third  country's certificates shall be re-examined. The Commission shall adopt implementing acts laying down its decision following that re-examination. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2), after notifying the Member States as well as the third country concerned at least six months in advance.

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↓ 2008/106/EC

## *Article 22*

### **Reassessment**

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↓ (EU) 2019/1159 Art. 1.9  
(adapted)

1. The third countries that have been recognised under the procedure referred to in the first subparagraph of Article 20(3), including those referred to in Article 20(6), shall be reassessed by the Commission, with the assistance of the European Maritime Safety Agency, on a

regular basis and at least within ten years of the last assessment, to verify that they fulfil the relevant criteria set out in Annex II and whether the appropriate measures have been taken to prevent  the  issuance of fraudulent certificates.

2. The Commission, with the assistance of the European Maritime Safety Agency, shall carry out the reassessment of the third countries based on priority criteria. Those priority criteria shall include the following:

- (a) performance data by the port State control pursuant to Article 24;
- (b) the number of endorsements attesting recognition in relation to certificates of competency, or certificates of proficiency issued in accordance with Regulations V/1-1 and V/1-2 of the STCW Convention, issued by the third country;
- (c) the number of maritime education and training institutions accredited by the third country;
- (d) the number of seafarers' training and professional development programmes approved by the third country;
- (e) the date of the Commission's last assessment of the third country and the number of deficiencies in critical processes identified during that assessment;
- (f) any significant change in the maritime training and certification system of the third country;
- (g) the overall numbers of seafarers certified by the third country, serving on ships flying the flags of Member States and the level of training and qualifications of those seafarers;
- (h) information concerning education and training standards in the third country provided by any concerned authorities or other stakeholders, if available.

In  the  case of non-compliance  by  a third country with the requirements of the STCW Convention in accordance with Article 21 of this Directive, the reassessment of that third country shall take priority in relation to the other third countries.

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↓ 2008/106/EC

3. The Commission shall provide the Member States with a report on the results of the assessment.

### *Article 23*

#### **Port State control**

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↓ 2012/35/EU Art. 1.18

1. Irrespective of the flag it flies, each ship, with the exception of those types of ships excluded by Article 2, shall, while in the ports of a Member State, be subject to port State control by officers duly authorised by that Member State to verify that all seafarers serving on

board who are required to hold a certificate of competency and/or a certificate of proficiency and/or documentary evidence under the STCW Convention, hold such a certificate of competency or a valid dispensation and/or certificate of proficiency and/or documentary evidence.

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↓ 2008/106/EC

2. When exercising port State control under this Directive, Member States shall ensure that all relevant provisions and procedures laid down in Directive 2009/16/EC are applied.

#### *Article 24*

#### **Port State control procedures**

1. Without prejudice to Directive 2009/16/EC, port State control pursuant to Article 23 shall be limited to the following:

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↓ 2012/35/EU Art. 1.19 (adapted)

(a) verification that every seafarer serving on board who is required to hold a certificate of competency and/or a certificate of proficiency in accordance with the STCW Convention holds such a certificate of competency or  a  valid dispensation and/or certificate of proficiency, or provides documentary proof that an application for an endorsement attesting recognition of a certificate of competency has been submitted to the authorities of the flag State;

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↓ 2008/106/EC

(b) verification that the numbers and certificates of the seafarers serving on board are in accordance with the safe-manning requirements of the authorities of the flag State.

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↓ 2012/35/EU Art. 1.20(a)

2. The ability of the ship's seafarers to maintain watchkeeping and security standards, as appropriate, as required by the STCW Convention shall be assessed in accordance with Part A of the STCW Code if there are clear grounds for believing that such standards are not being maintained because any of the following has occurred:

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↓ 2008/106/EC (adapted)

- (a) the ship has been involved in a collision, grounding or stranding;
- (b) there has been a discharge of substances from the ship when  underway , at anchor or at berth which is illegal under an international convention;
- (c) the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the IMO, or safe navigation practices and procedures have not been followed;

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↓ 2012/35/EU Art. 1.20(b)

- (d) the ship is otherwise being operated in such a manner as to pose a danger to persons, property or the environment, or to compromise security;
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↓ 2008/106/EC (adapted)

- (e) a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued;
- (f) the ship is flying the flag of a country which has not ratified the STCW Convention, or has a master, officer or rating holding a certificate issued by a third country which has not ratified the STCW Convention.

3. Notwithstanding verification of the certificate, assessment under paragraph 2 may require the seafarer to demonstrate the relevant competence at the place of duty. Such a demonstration may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.

#### *Article 25*

#### **Detention**

Without prejudice to Directive 2009/16/EC, the following deficiencies, in so far as they have been determined by the officer carrying out the port State control that they pose a danger to persons, property or the environment, shall be the only grounds under this Directive on which a Member State may detain a ship:

- (a) failure of seafarers to hold certificates, to have appropriate certificates, to have valid dispensations or provide documentary proof that an application for an endorsement attesting recognition has been submitted to the authorities of the flag State;
- (b) failure to comply with the applicable safe-manning requirements of the flag State;
- (c) failure of navigational or engineering-watch arrangements to conform to the requirements specified for the ship by the flag State;
- (d) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
- (e) failure to provide proof of professional proficiency for the duties assigned to seafarers for the safety of the ship and the prevention of pollution;
- (f) inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.



## Article 26

### Regular monitoring of compliance

Without prejudice to the powers of the Commission under Article 258 of the Treaty on the Functioning of the European Union, the Commission, assisted by the European Maritime Safety Agency, shall verify on a regular basis and at least every five years that Member States comply with the minimum requirements laid down by this Directive.

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↓ 2012/35/EU Art. 1.21

## Article 27

### Information for statistical purposes

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↓ (EU) 2019/1159 Art. 1.10  
(adapted)

1. The Member States shall communicate the information referred to in Annex III to the Commission for the purposes of Articles 21(8) and 22(2) and for use by the Member States and the Commission in policy making.

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↓ 2012/35/EU Art. 1.21 (adapted)

2. That information shall be made available by Member States to the Commission on a yearly basis and in electronic format and shall include information registered until 31 December of the previous year. Member States shall retain all property rights to the information in its raw data format. Processed statistics drawn up on the basis of such information shall be made publicly available in accordance with the provisions on transparency and protection of information set out in Article 4 of Regulation (EC) No 1406/2002.

3. In order to ensure the protection of personal data, Member States shall anonymise all personal information as indicated in Annex III by using software provided or accepted by the Commission before transmitting it to the Commission. The Commission shall only use this anonymised information.

4. Member States and the Commission shall ensure that measures for collecting, submitting, storing, analysing and disseminating such information are designed in such a way that statistical analysis is made possible.

For the purposes of the first subparagraph, the Commission shall adopt detailed measures regarding the technical requirements necessary to ensure the appropriate management of the statistical data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

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↓ (EU) 2019/1159 Art. 1.11

*Article 28*

**Evaluation report**

No later than 2 August 2024, the Commission shall submit to the European Parliament and to the Council an evaluation report, including suggestions for follow-up actions to be taken in the light of that evaluation. In that evaluation report, the Commission shall analyse the implementation of the mutual recognition scheme of seafarers' certificates issued by Member States, and any developments regarding digital certificates for seafarers at international level. The Commission shall also evaluate any developments regarding a future consideration of the European Maritime Diplomas of Excellence, as underpinned by the recommendations provided by the social partners.

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↓ (EU) 2019/1159 Art. 1.12  
(adapted)

*Article 29*

**Amendment**

1. The Commission is empowered to adopt delegated acts in accordance with Article 30 amending Annex I to this Directive and the related provisions of this Directive in order to align that Annex and those provisions with the amendments to the STCW Convention and Part A of the STCW Code.
2. The Commission is empowered to adopt delegated acts in accordance with Article 30 amending Annex V to this Directive with respect to specific and relevant content and details of the information that needs to be reported by Member States provided that such acts are limited to taking into account the amendments to the STCW Convention and Part A of the STCW Code and respect the safeguards on data protection. Such delegated acts shall not change the provisions on  the  anonymisation of data set out in Article 27(3).

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↓ (EU) 2019/1159 Art. 1.13

*Article 30*

**Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4(14) and Article 29 shall be conferred on the Commission for a period of five years from 1 August 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods

of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 4(14) and Article 29 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 4(14) and Article 29 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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↓ 2012/35/EU Art. 1.24
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### *Article 31*

#### **Committee procedure**

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council<sup>17</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 .

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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<sup>17</sup> Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p. 1).

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↓ 2012/35/EU Art. 1.25

*Article 32*

**Penalties**

Member States shall lay down systems of penalties for breaching the national provisions adopted pursuant to Articles 3, 4, 8, 10 to 16, 18, 19, 20, 23, 24, 25 and Annex I, and shall take all the measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

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↓ 2008/106/EC (adapted)

*Article 33*

**Communication**

Member States shall immediately communicate to the Commission the texts of all the provisions which they adopt in the field governed by this Directive.

The Commission shall inform the other Member States thereof.

*Article 34*

**Repeal**

Directive  2008/106/EC , as amended by the Directives listed in Annex IV, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for  the  transposition into national law of the Directives set out in Annex IV, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

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*Article 35*

**Entry into force**

This Directive shall enter into force on 3 August 2021.

*Article 36*

**Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*