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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	7 June 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2016) 189 final
Subject:	Commission Staff Working Document - Implementation Plan - Accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/45/EC on safety rules and standards for passenger ships Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States Proposal for a Directive of the European Parliament and of the Council on a system of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service and amending Directive 2009/16/EC of the European Parliament and of the Council on port State control and repealing Council Directive 1999/35/EC

Delegations will find attached document SWD(2016) 189 final.

Encl.: SWD(2016) 189 final

EUROPEAN
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Brussels, 6.6.2016
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COMMISSION STAFF WORKING DOCUMENT

Implementation Plan

Accompanying the document

Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/45/EC on safety rules and standards for passenger ships

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States

Proposal for a Directive of the European Parliament and of the Council on a system of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service and amending Directive 2009/16/EC of the European Parliament and of the Council on port State control and repealing Council Directive 1999/35/EC

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{SWD(2016) 190 final}

Implementation Plan[1]

1. Contact point

The responsible Commission service is Unit D.2 – Maritime safety – in DG MOVE.

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Website: http://ec.europa.eu/transport/modes/maritime/safety/passenger_ships_en.htm

2. Deliverables and implementation challenges

An overarching objective of this review is to provide for a clear, simple and up-to-date legal framework that is easier to implement, monitor and enforce, increasing thus the overall safety level. The review includes a number of clarification provisions that will necessitate adjustments in Member States with diverging interpretations. It also provides for new procedures that will in certain cases require both Member States and companies to adjust their current processes.

Member States should incorporate all amendments into their legislation and pay particular attention to the fact that Directive 1999/35/EC is replaced by a new Directive. The following implementation challenges have been identified in concrete terms:

2.1 Amendments to Directive 2009/45/EC

a. Offshore service vessels
These vessels should fall outside the scope of the Directive. Therefore, the 2 offshore service vessels that have been reported as certified under the Directive by DK would need to be re-certified. This should take place within the regular certification cycle.

b. Traditional and sailing ships
These vessels should fall outside the scope of the Directive. The existing 45-50 rig-sailing ships (primarily registered in NL) certified under the Directive would therefore need to be re-certified according to the national applicable standards. This should take place within the regular certification cycle.

c. Aluminium built ships

[1] This Implementation Plan is provided for information purposes only. It does not legally bind the Commission on whether the identified actions will be pursued or on the form in which they will be pursued.

These vessels should fall in the scope of the Directive. Currently, ca. 100 of these vessels sailing in France and Italy have not been certified according to the Directive and should be re-certified accordingly. The corresponding technical standards included in the Annex should be clarified in cooperation with national experts and adopted as soon as possible after the adoption of the amended Directive by the Legislators.

The costs of retro-fitting these vessels with adequate fire insulation such that they will comply with the Directive's safety standard would depend on the case by case basis and will be determined by the residual value at the ship in the moment of retro-fitting. Some of these vessels are likely to be phased out because of their normal life cycle. In any case, a sufficient transition period should be envisaged to smooth the adjustment to the maximum extent possible and to plan the technical updates, if any.

d. Simplification of sea areas

7 Member States reported that the proposed simplification would entail a need to modify their current definition of sea areas (NL, DE, PL, PT, SE, UK and one MS).

e. Notifications of exemptions, equivalencies and additional measures

To minimise cost implications for Member States, an existing platform such as CIRCA should be used as a database containing the notifications, additional information, Commission decisions and the final adopted measures. Access rights will however have to be developed together with Member States' experts.

f. Small ships

Small ships built from steel or equivalent material would no longer fall under the scope of the Directive. The ca. 70 small ships currently certified under the Directive should be therefore re-certified in the standard cycle and for the newly built ones, national legislation would apply.

2.2 Amendments to Directive 98/41/EC

a. Clarification of the scope of application

It should be clarified that Directive 98/41/EC applies only until the inner border of sea area D. This would not impact on Member States' own definitions of sea area boundaries and it would remain within the discretion of Member States to decide where sea area D should end (i.e. on its inner border) and where other areas should start (and how they should be demarcated), such as ports, estuaries or similar sheltered areas, inland waterways etc. Nonetheless, the common map of sea areas should be clarified with Member States.

b. Short voyages: Information on number of persons on board

Information on the number of persons should be recorded by operators to the National Single Window or made available by means of Automatic Identification System (AIS). Whether this will have impact on companies' processes would depend on a case-by-case basis, determined by their individual use of IT. In this context, it should be left to the national administration to assess whether AIS exemptions granted under different legal and market situations remain justified. Without prejudice to the full implementation of National Single Window by Member States, the operational decision on the interface between the National Single Window and the operators should be taken at national level.

c. Long voyages: Passenger and crew lists

Information on passengers and crew should be transmitted by operators to the National Single Window. In principle, recording the lists to National Single Window is a similar action to recording them in the registration system of the company (i.e. as long as they are in an electronic format). Depending on a case-by-case basis, recording the lists in National Single Window may, in addition to the company's operation system, require an internet connection. Without prejudice to the full implementation of National Single Window by Member States, the operational decision on the interface between the National Single Window and the operators should be taken at national level.

d. Nationality

Information on nationality should be added to the already collected information (name, date of birth, etc.), for passengers on a basis of self-declaration as it is currently the case. Only minor adjustments are expected both for the companies and Member States in this respect.

e. Verification

Member States should verify the accuracy and timeliness of data registration required by this Directive. The choice of means and frequency of such verification should be decided by Member States, similarly to the currently required random checks.

2.3 New Directive replacing Directive 1999/35/EC and amendments to Directive 2009/16/EC on port State control

a. Vessels outside the scope of port State control

These vessels should remain in the scope of the new Directive. Therefore the changes relate primarily to a number of clarified or updated provisions of the new Directive.

More specifically, the new Directive provides for an explicit provision that the specific ro-pax inspection may, at the discretion of the Member State, be carried out at the same time as or in conjunction with the annual flag State survey. On average, this would reduce the inspection burden from the ship perspective from 3 to 2 inspections

per year. Simplification for national authorities would be determined on the case-by-case basis, depending on by whom, when and how the inspection is carried out.

b. For vessels subject to port State control

These current inspection requirements for these vessels should be transferred into Directive 2009/16/EC on port State control. On average, this would reduce the inspection burden from the ship perspective from 4 to 3 inspections per year. For national administrations, the reduction should be even more substantial, given that according to the current requirements, every ro-pax inspection should be in principle carried out jointly by 2 (or more) host States.

From an operational perspective, the only change in comparison to status quo would be for ships that are currently flagged in one of the host States. For those vessels, the ro-pax inspections are on occasion being combined with the flag State survey. In reality, the share of such vessels in this group can range between 10-50 percent and change from year to year due to flag changes. This inspection burden should be more explicitly attributed between the flag and port States and in any case decrease overall compared to status quo.

c. Regularity of inspections

It should be ensured that two annual ro-pax inspections are carried out with a certain time lag, i.e. 5-6 months. Therefore, those Member States where this is not the case (BE, BG, MT, PT and EL) and Norway, would need to adjust their inspection planning accordingly.

d. Content of survey during a regular service

The proposed clarification on the content of the 'in service' inspection may necessitate revisiting the inspection 'checklist' in those Member States where the requirements of current Annex IV are not checked in their entirety.

3. Envisaged support actions

3.1 At EU level

- It is envisaged to make an extensive use of the existing Passenger Ship Safety Expert Group (PSS EG) in order to develop the implementation measures and to facilitate the transposition process. The corresponding expert groups dealing with the port State control inspections and the National Single Window implementation would be equally exploited.
- The Passenger Ship Safety Expert Group would be enlarged to stakeholders who could participate as observers and prepare for the forthcoming legal changes.

- A number of specific workshops and correspondence groups would be organised with the assistance of EMSA to further develop the issues of the more technical nature and to provide any technical assistance that may be needed during the transposition period.
- On request of Member States, a number of visits could be carried out by EMSA to detect any transposition difficulties and to provide technical assistance where needed.
- Existing training modules should be revised and continue to be provided with the assistance of EMSA.

3.2 At national level

- Member States should ensure participation of their national experts at the Passenger Ship Safety Expert Group, workshops and trainings as relevant.
- They should inform the Commission about any potential problems related to implementation as soon as they are identified.
- Member States should share information related to implementation and monitoring indicators when requested by the Commission and EMSA.
- Member States shall ensure the coordination between and raise awareness among the relevant competent authorities, economic actors such as shipyards, shipowners and operators, as well as passenger associations.

3.3 Timeline

Implementation challenge	Support action	Timing
BEFORE THE EXPIRY OF THE TRANSPOSITION DEADLINE		
Amendments to Directive 2009/45/EC		
Re-certification of ships that should fall outside the scope of the Directive	*Member States should inform the Commission about any potential problems as soon as they are identified and they may be discussed in the PSS EG*	*Throughout the transposition period. PSS EG is envisaged to take place in regular intervals, 2-3 per year*
Re-certification of ships that should fall in the scope of the Directive	*Should the re-certification of aluminium built ships be necessary, this should be carried out the basis of the clarified technical requirements*	*Corresponding technical requirements adopted as soon as possible after the entry into force of the amending Directive. Re-certification should be carried out within the transposition period*
Sea areas re-definition	*Where sea areas need to be redefined, Member States would be on their request assisted by the Commission and EMSA. The issue would be brought to the PSS EG*	*Throughout the transposition period. PSS EG is envisaged to take place in regular intervals, 2-3 per year*
Notification database	*The database shall be identified/developed by the Commission and access rights defined with national experts. PSS EG should be used for this purpose*	*To define the access rights at the time of the entry into force of the amending Directive*
Preparatory work for the implementation	*EMSA fact finding missions to Member States looking into, amongst other issues, interpretations of the detailed*	*Throughout the transposition period*

	technical requirements. These could also serve the purpose of detecting any transposition difficulties and providing technical assistance where needed	
Amendments to Directive 98/41/EC		
Definition of port areas in the context of Directive 98/41/EC and Directive 2009/45/EC	*Review to be carried out in the framework of the PSS EG or, if needed, specific workshop can be dedicated to this issue*	*Within the first 12 months after the entry into force of the amending Directive*
Number of persons on board recorded in National Single Window or made available by using AIS system	*Expert groups supporting the development of National Single Window, specific workshops should be organised as necessary. Coordination with the PSS EG should be ensured. Member States shall ensure the coordination between and raise awareness among the relevant competent authorities, economic actors such as shipyards, shipowners and operators, as well as passenger associations*	*Throughout the transposition period. Expert groups meetings at regular intervals 2-3 per year*
Passenger and crew lists recorded in National Single Window, including information on nationality	*Expert groups supporting the development of National Single Window, specific workshops should be organised as necessary. Coordination with the PSS EG should be ensured. Member States shall ensure the coordination between and raise awareness among the relevant competent authorities, economic actors such as shipyards, shipowners and operators, as well as passenger associations*	*Throughout the transposition period. Expert groups meetings at regular intervals 2-3 per year*
Verification	*To ensure common interpretation, guidance should*	*Throughout the transposition period. PSS EG is envisaged*

	be developed with the assistance of PSS EG	*to take place in regular intervals, 2-3 per year*
New Directive replacing Directive 1999/35/EC		
Ro-pax inspection may be carried out at same time or in conjunction with flag State survey	*Member States authorities would work with shipowners and with Recognised Organisations to facilitate this*	*Throughout the transposition period*
A period of time between inspections to ensure that these take place throughout the year to be introduced	*EMSA would work with Member States' authorities using the inspection database – also taking account of seasonal services*	*Throughout the transposition period*
In service inspection	*Member States should ensure that the clarified content is applied. Inspection checklist should be revisited where needed. They should inform the Commission about any potential problems related to implementation as soon as they are identified. Further discussions should take place in the framework of the PSS EG*	*Throughout the transposition period*
Amendments to Directive 2009/16/EC		
Operational issues	*COM/EMSA to work with national experts on operational issues to provide for the envisaged regularity and content of inspections*	*Throughout the transposition period*
AFTER THE EXPIRY OF THE TRANSPOSITION DEADLINE		
Amendments to Directive 2009/45/EC		
Monitoring of implementation and enforcement, evaluation	*Member States should share information related to implementation and monitoring indicators when requested by the Commission and EMSA. EMSA to carry out implementation*	*Visits should take place on an annual basis and the monitoring in time for the evaluation of the amending Directive to be completed in*

	visits. Existing training modules should be revised and continue to be provided with the assistance of EMSA	*time*
Interpretation issues may be arising for the technical annex	*Consultation with PSS EG to ensure uniform application of the technical requirements*	*The matter can be dealt within the normal PSS EG meetings cycle*
Amendments to Directive 98/41/EC		
Monitoring of implementation and enforcement, evaluation	*Member States should share information related to implementation and monitoring indicators when requested by the Commission and EMSA. EMSA to carry out implementation visits. Existing training modules should be revised and continue to be provided with the assistance of EMSA*	*Visits should take place on an annual basis and the monitoring in time for the evaluation of the amending Directive to be completed in time*
Detected early problems in the use of electronic tools for data recording by the operators	*EMSA regular implementation cycle can be timely planned to address these issues. PSS experts group should discuss implementation issues to ensure uniform application of the requirements*	*Regular cycle of EMSA implementation visits and PSS EG regular meeting cycle (i.e. 2-3 per year)*
New Directive replacing Directive 1999/35/EC		
Monitoring of implementation and enforcement, evaluation	*Member States should share information related to implementation and monitoring indicators when requested by the Commission and EMSA. EMSA to carry out implementation visits. Existing training modules should be revised and continue to be provided with the assistance of EMSA*	*Visits should take place on an annual basis and the monitoring in time for the evaluation of the new Directive to be completed in time*
Issues of implementation	*Regular expert group meetings, dedicated workshops with*	*In regular intervals when needed, in coordination with*

and interpretations	*national authorities may be organised when needed to work to harmonise implementation of the ro-pax inspections*	*the PSS EG timetable*
Amendments to Directive 2009/16/EC		
Monitoring of implementation and enforcement, evaluation	*Member States should share information related to implementation and monitoring indicators when requested by the Commission and EMSA. EMSA to carry out implementation visits. Existing training modules should be revised and continue to be provided with the assistance of EMSA*	*Visits should take place on an annual basis and the monitoring in time for the evaluation of the amending Directive to be completed in time*
Issues of implementation and interpretations	*Regular expert group meetings, dedicated workshops with national authorities may be organised when needed to work to harmonise implementation of the ro-pax inspections*	*In regular intervals when needed, in coordination with the PSS EG timetable*