



COMMISSION OF THE EUROPEAN COMMUNITIES

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OPINION OF THE COMMISSION
on the amendments proposed by the European Parliament
to the Council's common position on the

proposal for a
COUNCIL DIRECTIVE

on the registration of persons sailing on board passenger ships

(presented by the Commission pursuant to Article 189 c (d) of the EC Treaty)

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On 11 March 1998 the European Parliament adopted 7 amendments to the common position on the above proposal which was adopted by the Council on 11 December 1997. The amendments of the Parliament are attached to this memorandum.

In pursuance of Article 189c, section (d), the Commission has reconsidered its proposal and decided not to accept the said amendments for the following reasons:

Amendments N° 1 to 3 related to new recitals to be inserted in the recitals of the common position.

They are meant to highlight a lack of progress in the safety of maritime transport of passengers and the non-implementation of recommendations after the tragedy of the Herald of Free Enterprise with suggestions to improve the stability and construction of ro-ro passenger ships. The Commission is of the opinion that these recitals are either in contradiction with the achievements both at EC level and at international level or are referring to matters outside the scope of this Directive.

Amendments 4 and 5 related to an extension of the scope of the Directive to "under sea" rail tunnels involving car shuttle journeys.

These amendments deal with the Channel situation and are meant to impose the registration of the particulars of the passengers on "all 'under sea' rail tunnels involving car shuttle journeys in excess of 20 miles". Justifications for such amendments are competitive pressures following the introduction of "under sea" train services through the Eurotunnel and the advantage of having similar information in the case of a fire in the tunnel, as this was the case following the near disastrous fire in the Channel Tunnel in 1996. The Commission could not follow the European Parliament on this issue since this Directive primarily aims to implement in an harmonised way internationally agreed maritime rules. In addition, there are no convincing arguments to have different rules for rail tunnels according to whether they go under the sea or not and serious doubts exist as to whether a passenger registration scheme of the type proposed for

ferry operations would add sufficient value to the detailed safety regime developed specifically for the Channel Tunnel by the French and British authorities. With regard to a possible distortion of competition between transport modes arising from the implementation of this Directive, the Commission seeks to achieve equitable conditions of competition between transport modes by a variety of means, but for very practical reasons that cannot mean legislating for one sector simply because another has become subject to a law which imposes new obligations. The need for passenger registration on ships stems from actual ferry disasters such as the "Estonia" and the "Herald of Free Enterprise" and from obligations under the SOLAS Convention. Neither these experiences, nor such international rules, apply to Channel tunnel operations.

Amendment 6 related to Article 5 of the common position.

The first part of the amendment aims to ensure that the information on passengers shall be recorded for journeys of minimum two hours or if the distance between the two ports is at least 20 miles. The second part is meant to impose the communication of this information to the shore before the departure of the passenger ship. The Commission is of the opinion that Article 9 of the Common position provides the necessary flexibility to cope with journeys of short duration and that Article 5 in conjunction with Article 8 will ensure that the information will always be available when needed.

Amendment 7 related to Article 9 of the Common Position.

This amendment is linked with the first part of amendment 6 and could consequently not be accepted.

Therefore the Commission confirms its agreement on the common position adopted by the Council on 11 December 1997.

In Annex: the 7 amendments.

(Amendment 1)

Recital 2

2. Whereas the Community is seriously concerned by shipping accidents involving passenger ships which have resulted in massive loss of life, particularly those involving the "Herald of Free Enterprise" and the "Estonia",

2. Whereas the Community is seriously concerned by the limited progress in the safety of maritime transport of passengers in the eleven years since the accident of the passenger ferry "Herald of Free Enterprise" on the 6th March 1987, which caused the loss of 191 lives and the "Estonia" on the 28th of September 1994; (rest unchanged)

(Amendment 2)

Recital 2 bis (new)

Whereas the lack of political will to improve the safety aspects of maritime transport and the setting aside of the recommendations included in the Sheen report, drawn in the aftermath of the "Herald of Free Enterprise" disaster, have resulted in the continuation of this unsatisfactory situation;

(Amendment 3)

Recital 8 bis (new)

Whereas safety standards for the design and building of Ro-Ro passenger vessels, including watertight bulkheads and sponsons, are required urgently and must be included in the future measures to improve safety at sea;

(Amendment 4)

Article 1a (new)

1a. This Directive shall also apply to all 'under sea' rail tunnels involving car shuttle journeys in excess of twenty miles.

(Amendment 5)

Article 3(1)

This Directive shall apply to passenger ships with the exception of:

- ships of war and troop ships; and
- pleasure yachts unless they are or will be crewed and carrying more than twelve passengers for commercial purposes.

This Directive shall apply to all 'under sea' rail tunnels involving car shuttle journeys of more than twenty miles and to passenger ships with the exception of:

- ships of war and troop ships; and
- pleasure yachts unless they are or will be crewed and carrying more than twelve passengers for commercial purposes.

(Amendment 6)

Article 5

1. The following information shall be recorded regarding every passenger ship that departs from a port located in a Member State to undertake a voyage of more than twenty miles from the point of departure:

- the family names of the persons on board;
- their forenames or initials;
- their sex;
- an indication of the category of age (adult, child or infant) to which each person belongs, or the age, or the year of birth;
- when volunteered by a passenger, information concerning the need for special care or assistance in emergency situations.

2. That information shall be collected before departure and communicated not later than thirty minutes after the passenger ship's departure to the company's passenger registrar or to a shore-based company system that performs the same function

1. The following information shall be recorded regarding every passenger ship that departs from a port located in a Member State if the normal journey time is estimated to be at least two hours or if the distance between the two ports is at least 20 miles:

- the family names of the persons on board;
- their forenames or initials;
- their sex;
- an indication of the category of age (adult, child or infant) to which each person belongs, or the age, or the year of birth;
- when volunteered by a passenger, information concerning the need for special care or assistance in emergency situations.

2. That information shall be communicated before the passenger ship's departure to the company's passenger registrar or to a shore-based company system that performs the same function.

(Amendment 7)
Article 9(1)

1. A Member State from whose port a passenger ship departs may lower the 20 mile threshold mentioned in Article 5.

1. A Member State from whose port a passenger ship departs may lower the two hour or 20 mile threshold mentioned in Article 5.

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