



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.11.1998
COM(1998) 636 final

98/0064 (SYN)

Amended proposal for a

COUNCIL DIRECTIVE

on conditions for the operation of regular ro-ro ferry
and
high speed passenger craft services in the Community

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

During its 5-9 October Plenary Session, the European Parliament approved, subject to a number of amendments, the Commission's proposal for a Council Directive on conditions for the operation of regular ro-ro ferry and high speed passenger craft services in the Community¹. The Economic and Social Committee delivered its opinion on 9 September 1998.²

Both the European Parliament and the Economic and Social Committee support to a very large extent the Commission initiative to ensure that regular passenger ferry services to and from EC ports apply more effectively internationally agreed safety requirements and to close the legal loophole which prevents Member States from participating by right in an investigation in the aftermath of a maritime incident in EU waters involving citizens of the host state.

After suggestions formulated by the ESC and several amendments adopted by the European Parliament the Commission intends to clarify and to make more concise some of the requirements of the Directive and to improve the transparency.

The Commission is prepared to incorporate these suggestions and amendments so far as the coherence with other Directives and Regulations on maritime safety is not affected and the objectives cannot be reached through the proposed comitology procedure.

For these reasons the Commission could not accept:

- the amendments altering the definition of regular service and making a direct reference to Directive 94/57/EC,
- the amendment leading to an automatic application of future amendments to IMO Resolution A.746 (18),
- the amendment excluding any possibility to take care of exemptions from performance standards for VDR to be fitted on existing vessels, based upon justified technical grounds, after a period of 5 years,
- the amendment ensuring an unconditioned transparency without taking care of reliability and security aspects and without providing guarantees against commercial abuse,
- the amendments imposing the provision of information which is not required by the International Conventions or by Community legislation in the field of maritime safety.

To cope with the objective of more clarity, the EP proposed to amend the wording of the purpose of the Directive (Article 1), to introduce some additional definitions already used in Directive 98/18/EC in Article 2 and to complement Article 8. Subject to editorial changes the Commission is able to endorse these proposed amendments.

The Commission accepts the principle that the burden of providing evidence that the flag State has accepted the company's commitment to comply with the Directive for its ships flying a third flag, should not be put upon the company. Therefore it proposes not only to delete paragraph 6.3 but also to clarify the role of the flag State through the insertion of a new paragraph 7.2bis.

¹ COM(1998) 71 final - 98/0064(SYN) of 18.02.1998.

² O.J. N° C of 1998, p.

Equally, the Commission also accepts to take up in Article 8.7 the idea of charging survey costs in order to provide an additional deterrent for substandard operators.

Finally in order to encounter the request to assess the effectiveness of the Directive and the progress made in respect of the safety of ships and craft in light of the 1994 Council Resolution, the Commission proposes to limit this assessment to the scope and implementation of the Directive. Thereby, it proposes to report three years after the date of implementation, thus following an approach already followed in Council Regulation (EC) 3051/95, instead of a too stringent evaluation framework. As regards an annual reporting, this should be done within the existing framework of the annual Commission report on the application of Community law.

Therefore in compliance with Article 189A, paragraph 2, the Commission modifies its proposal.

**Amended proposal for a
Council Directive
on conditions for the operation of regular ro-ro ferry and
high speed passenger craft services in the Community**

---Original text---

---Amended text---

**Article 1
Purpose**

The purpose of this Directive is to lay down conditions for the safe operation of regular ro-ro ferry and high speed passenger craft services to or from ports in the Member States of the Community and to provide the right for Member States to conduct, participate in or co-operate with any investigation of maritime casualties or incidents on these services.

The purpose of this Directive is to lay down a system of mandatory surveys which will provide a greater assurance of safe operation of regular ro-ro ferry and high speed passenger craft services to or from ports in the Member States of the Community and to provide the right for Member States to conduct, participate in or co-operate with any investigation of maritime casualties or incidents on these services

**Article 2
Definitions**

(b^{bis}) “passenger” is every person other than:

(i) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and

(ii) a child under one year of age;

(f^{bis}) “port area” shall mean an area other than a sea area , as defined by the Member States, extending to the outermost permanent harbour works forming an integral part of the harbour system, or to the limits defined by natural geographical features protecting an estuary or similar sheltered area;

(j) “host State” shall mean a Member State to or from whose ports a ro-ro ferry or a high speed passenger craft is engaged on a regular service;

(j) “host State” shall mean a Member State to or from whose port(s) a ro-ro ferry or a high speed passenger craft is engaged on a regular service;

Article 6.3

Companies shall inform the host States that for ships or craft, flying a flag other than that of a Member State, the administration of that flag State has accepted the company's commitment to fulfil the requirements imposed by the host States as a condition to provide a regular service to or from one or more of their ports.

Delete

Article 7.2bis (new)

Prior to the start of operation by a ro-ro ferry or high speed passenger craft on a regular service, or within twelve months of the date referred to in Article 15(1) for a ro-ro ferry or high speed passenger craft already operating a regular service, Host States shall check for ships or craft flying a flag other than that of a Member State, the concurrence of that flag State that it has accepted the company's commitment to meet the requirements of this Directive.

Article 8
Procedures related to specific surveys

3. Host States, in planning an initial survey, shall take due account of the operational and maintenance schedule of the ship or craft
4. The findings of the specific surveys shall be recorded in a report of which the format shall be established in accordance with the procedure laid down in Article 12.
3. Host States, in planning an initial specific survey, shall set a time-limit of maximum one month for this survey to be completed and shall take due account of the operational and maintenance schedule of the ship or craft
4. The findings of the specific surveys shall be recorded in a report of which the format shall be established in accordance with the procedure laid down in Article 12. These findings shall also be communicated to the flag State, if different from the host State.
7. Should the specific surveys confirm or reveal deficiencies in relation to the requirements of this Directive warranting a prevention of operation, all costs related to the surveys in any normal accounting period shall be covered by the company.

Article 15 bis (new)

Three years after the implementation date of this Directive the Commission shall assess on the basis of information to be provided by the Member States the implementation of this Directive and propose any appropriate measure.

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DOCUMENTS

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7