



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.07.1997
COM(97) 340 final

96/0281 (SYN)

Amended proposal for a

COUNCIL DIRECTIVE

on the registration of persons sailing on board passenger ships

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

EXPLANATORY MEMORANDUM

During its 28-29 May Plenary Session, the European Parliament approved, subject to a number of amendments, the Commission's proposal for a Council Directive on the registration of persons sailing on board passenger ships¹. The Economic and Social Committee delivered its opinion on 23 April 1997².

It is intended by the amendments adopted by the European Parliament to introduce some flexibility in the Directive, to highlight a lack of progress in the safety of maritime transport of passengers and 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. The Commission is prepared to take care of the request for more flexibility so far as such flexibility does not affect the application of the registration of persons on board ships sailing in areas where dense traffic exists and with often prevailing adverse weather and sea conditions. Such flexibility has also been suggested by the Economic and Social Committee. On the other hand it has difficulties in following the EP in its allegation of a lack of results in the field of maritime safety or on their suggestion that the scope be widened by including 'under sea' rail tunnels in the Directive.

More precisely, the Commission could not accept:

- the amendments to insert new recitals since it is of the opinion that they 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.
- the amendment proposing a new Article 1a and consequently the amendments to Articles 3(1) and to the introductory sentence of Article 8 taking account of the maritime origin of the proposal (SOLAS Convention) and due to the fact that the possible added value of the application of this Directive to tunnels under the sea has not been investigated. The Commission however takes note of the suggestion voiced by the EP to impose a registration system for cars using railway shuttles and is prepared to investigate the merits of such a proposal. This however, should not be dealt with in this Directive.
- the amendment to article 2 introducing a definition of 'seagoing passenger ship' since the proposed wording of such definition will result in an automatic non-application of the Directive in sheltered waters.
- the amendment to Article 6a imposing an obligation upon the master to communicate, as a general rule, to the company, the number of persons carried on board and in addition for voyages exceeding 20 miles, the particulars of those persons. The Commission is of the opinion that it is essential to ensure that both the number and the information on persons is collected before departure of the ship. However this should not be achieved by putting an additional burden upon the master. To underline this essential principle the Commission proposes a slightly redrafted Article 6.

¹ COM(96) 574 final 25.11.1996.

² O.J. N° C of 1997, p.

To cope with the objective of more flexibility, the EP proposed to amend Article 6 and consequently Article 9a. The Commission concurs with the principle for more flexibility, but prefers to achieve this flexibility through the possibility of exemptions and derogations, to be granted by the Commission, with assistance of the advisory Committee, under well defined conditions. Therefore it proposes to amend Article 9 and to replace the definition of "sheltered waters" in Article 2 by a definition of "Protected sea area", also adding a definition of "regular service".

Equally the Commission also accepts to insert in Article 6 a reference to the precise age, not in replacement of, but in addition to, the requirement to provide an indication of the age, in order to maintain a necessary degree of flexibility. For the same reasons the Commission prefers to keep the possibility to provide the first name or the initial instead of only the first name as suggested by the EP. At the same time some editorial improvements have been made

Finally the Commission supports the idea behind the amendment to Article 8 2nd paragraph and thus proposes an improved wording.

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

**Amended proposal for a
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on the registration of persons sailing on board passenger ships**

---Original text---

---Amended text---

Article 2, last indent

- "sheltered waters" means areas where the annual probability of the significant wave height exceeding 1,5 m is less than 10%, and in which a passenger ship is at no time more than six miles from a place of refuge where shipwrecked persons can land.

DELETED

Article 2, new indents

- "protected sea area" means a sea area sheltered from open sea effects where a ship is at no time more than six miles from a place of refuge where shipwrecked persons can land and in which the proximity of search and rescue facilities is ensured;
- "regular service" means a series of ship crossings operated so as to serve traffic between the same two or more points, either:
 - a) according to a published timetable; or
 - b) with crossings so regular or frequent that they constitute a recognizable systematic series;

Article 6

The following information shall be recorded for all passenger ships which depart from a port located in a Member State undertaking voyages of more than 20 miles from the point of departure:

- the names of the persons on board,
- the first name or initial,

- the gender
- an indication about the category of age (adult, child or infant) to which the person belongs.

- when volunteered by a passenger, information as to the need for special care or assistance in emergency situations.

This information shall be communicated not later than 30 minutes after departure of the passenger ship to the designated person of the company.

1. The following information shall be recorded for all passenger ships which depart from a port located in a Member State undertaking voyages of more than 20 miles from the point of departure:

- the surnames of the persons on board,
- the first names or initials,
- the gender
- an indication about the category of age (adult, child or infant) to which the person belongs, or age, or year of birth.

-when volunteered by a passenger, information as to the need for special care or assistance in emergency situations.

2. This information shall be collected before departure and communicated not later than 30 minutes after departure of the passenger ship to the designated person of the company.

Article 8

All companies assuming the responsibility for operating a passenger ship referred to in Article 3, shall:

- set up a system for the registration of the information required under the provisions of Articles 5 and 6. The system shall conform with the criteria set out in Article 11,
- appoint a designated person responsible for the keeping and the transmission of the information required by this Directive.

The company shall ensure that information required by this Directive is immediately transmitted to the designated authority or can at all times be made readily available to this authority.

The information shall not be kept longer than necessary for the purpose of this Directive and as a general rule shall be deleted as soon as the ship's voyage in question has been safely completed.

The company shall ensure that information on details of persons who have declared a need for special care or assistance in emergency situations, shall be properly recorded and communicated to the master prior to departure of the passenger ship.

All companies assuming the responsibility for operating a passenger ship referred to in Article 3, shall:

- set up a system for the registration of the information required under the provisions of Articles 5 and 6. The system shall conform with the criteria set out in Article 11,
- appoint a designated person responsible for the keeping and the transmission of the information required by this Directive.

The company shall ensure that information required by this Directive shall be, at all times readily available for transmission to the designated authority for search and rescue purposes in the event of an emergency or in the aftermath of an accident.

The information shall not be kept longer than necessary for the purpose of this Directive and as a general rule shall be deleted as soon as the ship's voyage in question has been safely completed.

The company shall ensure that information on details of persons who have declared a need for special care or assistance in emergency situations, shall be properly recorded and communicated to the master prior to departure of the passenger ship

Article 9

1. A Member State from whose port a passenger ship departs may lower the 20 mile threshold mentioned in Article 6.

2. A Member State from whose port a ship departs may exempt passenger ships operating in sheltered waters on scheduled services, with a duration less than 30 minutes between port calls, from the obligation to communicate to the designated person of the company as mentioned in Article 5.

A Member State from whose port a ship departs may exempt from the obligations of Article 6 passenger ships operating exclusively in sheltered waters on the condition that adequate and sufficient search and rescue facilities are available in the area in which such ships operate.

A Member State shall not exempt, under the provisions of this Directive, passenger ships sailing from its ports, flying the flag of a third party contracting flag State to SOLAS, which under the relevant SOLAS provisions do not concur to the application of such exemptions.

3. In the circumstances set out in paragraph 2, the following procedure shall apply:

a) the Member State shall inform the Commission of the exemption decision without delay giving substantial reasons therefor;

1. A Member State from whose port a passenger ship departs may lower the 20 mile threshold mentioned in Article 6.

2. A Member State from whose port a ship departs may exempt from the obligation to communicate to the designated person of the company as mentioned in Article 5. passenger ships operating exclusively in a protected sea area on regular services with a duration less than 1 hour between port calls,

A Member State may exempt from the obligation laid down in Article 6 passenger ships sailing, on journeys between two ports or the same port, exclusively in protected sea areas.

3. In the circumstances set out in paragraph 2, the following procedure shall apply:

a) the Member State shall inform the Commission of the exemption decision without delay giving substantial reasons therefor;

b) If the Commission within the period of six months from the notification, considers that the exemption is not justified or could have adverse effects on competition, it may, acting in accordance with the procedure laid down in Article 13, paragraph 2, require the Member State to amend or withdraw the exemption.

b) If the Commission within the period of six months from the notification, considers that the exemption is not justified or could have adverse effects on competition, it may, acting in accordance with the procedure laid down in Article 13, paragraph 2, require the Member State to amend or withdraw the exemption.

4. For regular services in an area where the annual probability of the significant wave height exceeding 2 m is less than 10%, and as far as the voyage does not exceed approximately 30 miles from the point of departure or when the passenger ship is predominantly used by commuters, a Member State whose port passenger ships sail on a domestic voyage or two Member states between whose ports passenger ships sail, may request the Commission, if they consider it impracticable for companies to record the information mentioned in Article 6.1 to derogate, wholly or partly, from this requirement.

To this end, evidence on the impracticability shall be provided. In addition, it shall be demonstrated that in the area where such ships operate, shore based navigational guidance and reliable weather forecasts are provided and that the adequate and sufficient search and rescue facilities are available. Derogations granted under this paragraph shall not have an adverse effect on competition.

A decision shall be taken in accordance with the procedure laid down in Article 13, paragraph 2.

5. A Member State shall not, under the provisions of this Directive, exempt nor grant derogations to passenger ships sailing from its ports, flying the flag of a third party contracting flag State to SOLAS, which under the relevant SOLAS provisions do not concur to the application of such exemptions.

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