



2016/0172(COD)

4.10.2016

*****I**

DRAFT REPORT

on the 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
(COM(2016)0371 – C8-0210/2016 – 2016/0172(COD))

Committee on Transport and Tourism

Rapporteur: Dominique Riquet

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	7

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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 (COM(2016)0371 – C8-0210/2016 – 2016/0172(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0371),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0210/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 19 October 2016¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C ...

Amendment 1

Proposal for a directive Recital 3

Text proposed by the Commission

(3) Most Member States already combine mandatory surveys for the safe operation of regular ro-ro ferries with other types of surveys and inspections where possible, namely flag State surveys and port State control inspections. To further reduce the inspection effort and to maximise the time in which the ship can be commercially exploited, vessels subject to port State control inspections should be therefore transferred to Directive 2009/16/EC and the scope of this Directive should be confined to ships providing regular ro-ro ferry and high-speed passenger craft services between ports within a Member State or between a port in a Member State and a port in a third State where the flag of the vessel is the same as the Member State in question.

Amendment

(3) Most Member States already combine mandatory surveys for the safe operation of regular ro-ro ferries with other types of surveys and inspections where possible, namely flag State surveys and port State control inspections. To further reduce the inspection effort and to maximise the time in which the ship can be commercially exploited, vessels subject to port State control inspections should be therefore transferred to Directive 2009/16/EC and the scope of this Directive should be confined to ships providing regular ro-ro ferry and high-speed passenger craft services between ports within a Member State or between a port in a Member State and a port in a third State where the flag of the vessel is the same as the Member State in question. ***For ships flying the flag of a Member State providing regular ro-ro ferry and high-speed passenger craft services between a Member State and a non-Member State, Directive 2009/16/EC (port State control) shall apply if the flag being flown is not the same as the flag of the Member State in question.***

Or. fr

Justification

The rapporteur wishes to introduce more clarity between the scope of this Directive and that of Directive 2009/16/EC by setting out the different scenarios for regular services between Member States and non-Member States in order to avoid any legal uncertainty.

Amendment 2

Proposal for a directive Recital 5

PE589.485v01-00

6/15

PR\1116819EN.docx

Text proposed by the Commission

(5) Directive 1999/35/EC provided that every 12-month period a specific survey and a survey during regular service must be carried out by host States. Although the objective of this requirement was to ensure that these two inspections are carried out with *a certain interval between them*, the *REFIT* fitness check demonstrated that this *is* not always the case. To *remove the ambiguity of that requirement* and to ensure a *common* safety level, it should be clarified that the two annual inspections should take place at regular, approximately six monthly intervals.

Amendment

(5) Directive 1999/35/EC provided that every 12-month period a specific survey and a survey during regular service must be carried out by *Member States in their capacity as* host States. Although the objective of this requirement was to ensure that these two inspections are carried out with *an interval of around five to six months*, the fitness check *of the legislation on passenger ship safety (REFIT)* demonstrated that this *was* not always the case *in practice*. To *clarify the inspection system* and to ensure a *harmonised inspection framework guaranteeing an improved* safety level, it should be clarified that the two annual inspections should take place at regular, approximately six monthly intervals.

Or. fr

Justification

The rapporteur would like to introduce more detail on the changes to this Directive which REFIT has shown to be necessary.

Amendment 3

Proposal for a directive

Article 2 – paragraph 1 – point 12 a (new)

Text proposed by the Commission

Amendment

(12a) ‘competent authority of the Member State’ means the authority appointed by the Member State under this Directive and responsible for carrying out the tasks assigned to it by this Directive.

Or. fr

Justification

The rapporteur considers it necessary to define the competent authority of the Member State,

since this is referred to several times in the Directive and may well differ in nature between the Member States.

Amendment 4

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Prior to the start of operation by a ro-ro ferry or high-speed passenger craft on a regular service covered by this Directive, Member States shall carry out a pre-commencement inspection, consisting of:

Amendment

1. Prior to the start of operation by a ro-ro ferry or high-speed passenger craft on a regular service covered by this Directive, ***the competent authorities of the*** Member States shall carry out a pre-commencement inspection, consisting of:

Or. fr

Justification

The rapporteur wishes to specify that this is not necessarily the Member State but that it might be an authority appointed by the Member State.

Amendment 5

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

1. When a ro-ro ferry or high-speed passenger craft is to be engaged on another regular service, the Member State ***shall*** take into account inspections and surveys previously carried out for that ro-ro ferry or high-speed passenger craft for operation on a previous regular service covered by this Directive. Provided that the Member State is satisfied with those previous inspections and surveys and that they are relevant to the new operational conditions, the inspections and surveys provided for in Article 3(1) need not be applied prior to the ro-ro ferry or high-speed passenger craft starting operation on the new regular

Amendment

1. When a ro-ro ferry or high-speed passenger craft is to be engaged on another regular service, the Member State ***may*** take into account inspections and surveys previously carried out for that ro-ro ferry or high-speed passenger craft for operation on a previous regular service covered by this Directive. Provided that the Member State is satisfied with those previous inspections and surveys and that they are relevant to the new operational conditions, the inspections and surveys provided for in Article 3(1) need not be applied prior to the ro-ro ferry or high-speed passenger craft starting operation on the new regular

service.

service.

Or. fr

Justification

As set out in Article 1, the Member States may (but are not obliged to) apply this Directive to ro-ro ferries and high-speed passenger craft used on a regular service.

Amendment 6

Proposal for a directive

Article 4 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) a visual inspection and document check raises no concerns that the ro-ro ferry or high-speed passenger craft does not fulfil the necessary requirements for safe operation, and

(Does not affect the English version.)

Or. fr

Justification

orthographic correction

Amendment 7

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) ***an*** inspection during a regular service, not before five months but not later than seven months following the inspection. This inspection shall cover the items listed in Annex III and sufficient number of the items listed in Annexes I and II to ensure that the ro-ro ferry or high-speed passenger craft continues to fulfil all the necessary requirements for safe operation.

(b) ***a second*** inspection during a regular service, not before five months but not later than seven months following the inspection ***as set out in (a)***. This inspection shall cover the items listed in Annex III and ***a*** sufficient number of the items listed in Annexes I and II (***according to the professional judgment of the inspector***), to ensure that the ro-ro ferry or high-speed passenger craft continues to fulfil all the

necessary requirements for safe operation.

Or. fr

Justification

Amendment to clarify Article 5.

Amendment 8

Proposal for a directive Article 5 – paragraph 3

Text proposed by the Commission

3. Member States shall carry out an inspection in accordance with Annex II each time the ro-ro ferry or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change in management, or a transfer of class.

However, in case of change in management, or transfer of class, the Member State may, after taking account of inspections previously carried out for the ro-ro ferry or high-speed passenger craft, and provided that the safe operation of the ferry or craft is not affected by this change or transfer, dispense the ferry or craft from the inspection required by this paragraph.

Amendment

3. Member States shall carry out an inspection in accordance with Annex II each time the ro-ro ferry or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change in management, or a transfer of class.

Or. fr

Justification

In the rapporteur's view this provision on inspections should not be included in the Directive as it might threaten passenger safety and security. The rapporteur therefore recommends its removal from the proposal.

Amendment 9

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

2. In the case of deficiencies which are clearly hazardous to safety or **health or** which pose an immediate danger to **life**, the **ro-ro ferry** or **high-speed passenger craft**, its crew and passengers the Member State shall ensure that the ro-ro ferry or high-speed passenger craft is subject to a prohibition of departure order. The master shall be provided with a copy of the prohibition of departure order.

Amendment

2. In the case of deficiencies **in the ro-ro ferry or high-speed passenger craft** which are clearly hazardous to safety or which pose an immediate danger to the **health or the lives of** its crew and passengers, the Member State shall ensure that the ro-ro ferry or high-speed passenger craft is subject to a prohibition of departure order. The master shall be provided with a copy of the prohibition of departure order.

Or. fr

Justification

The rapporteur proposes reformulating the first part of the paragraph to make the text clearer.

Amendment 10

Proposal for a directive
Article 7 – paragraph 7

Text proposed by the Commission

7. In order to alleviate port congestion, the Member State may allow a ro-ro ferry or high-speed passenger craft subject to a prohibition of departure order to be moved to another part of the port if it is safe to do so. However, the risk of port congestion shall not be a consideration when deciding on a prohibition of departure order or the lifting a prohibition of departure order. Port authorities or bodies shall facilitate the accommodation of such ships.

Amendment

7. In order to alleviate port congestion, the **competent authority of the** Member State may allow a ro-ro ferry or high-speed passenger craft subject to a prohibition of departure order to be moved to another part of the port if it is safe to do so. However, the risk of port congestion shall not be a consideration when deciding on a prohibition of departure order or the lifting a prohibition of departure order. Port authorities or bodies shall facilitate the accommodation of such ships.

Or. fr

Justification

The rapporteur notes that it is not necessarily the Member State that can rule on this matter. In some Member States this competence has been delegated to a competent authority by the

Member State.

Amendment 11

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

1. Should the inspections referred to in Articles 3 and 5 confirm or reveal deficiencies warranting a prohibition of departure, all costs relating to the inspections shall be covered by the company.

Amendment

1. Should the inspections referred to in Articles 3 and 5 confirm or reveal deficiencies warranting a prohibition of departure, all costs relating to the inspections shall be covered by the company. ***The system of possible extra charges for the port shall be governed by the contractual relationship between the operator and the port.***

Or. fr

Justification

The rapporteur would like to ensure that there is no legal uncertainty surrounding the costs relating to inspections in the event of prohibition of departure, in particular by specifying the extra charges which may be payable by the port and other stakeholders, for example if the ship is blocking part of the port or if goods are blocked or altered as a result of the ship being immobilised.

Amendment 12

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for ***an indeterminate*** period of ***time*** from [the date of entry into ***force***].

Amendment

2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for ***a*** period of ***five years*** from [the date of entry into ***force of this Directive***]. ***The Commission shall produce a report on the delegation of power within nine months of the five-year period coming to an end. 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.

Or. fr

EXPLANATORY STATEMENT

Background

The Commission proposal on inspections of ro-ro ferries and high-speed passenger craft is part of the REFIT programme, which aims to simplify and rationalise the current legislative framework. Parliament's debate on the proposal will open at a key moment for the maritime sector, as 2017 is the European year of the sea. 2017 should therefore be crucial in reinforcing the position of the maritime sector in the internal market.

The proposal aims to eliminate the legal uncertainty and redundancy caused by the coexistence of two directives on the inspection of vessels: Directive 1999/35/EC, which lays down rules for inspections of ro-ro ferries and high-speed passenger craft, and Directive 2009/16/EC, which sets out a system of inspections by the port State for ships on the basis of risk evaluation.

The Commission proposal should also help reduce the administrative and financial burden on operators/owners by eliminating the overlap between the specific surveys provided for under Directive 1999/35/EC and the expanded inspections under Directive 2009/16/EC, and the annual flag State surveys, whilst maintaining a high level of security.

Intended to replace Directive 1999/35/EC, the proposal in fact reduces its scope. It restricts inspections to ro-ro ferries and high-speed passenger craft operating on a regular service between a port of a Member State and a port in a third State where the flag of the vessel is the same as that of the Member State in question or on domestic voyages on a regular service in sea areas in which ships of Class A may operate in accordance with Directive 2009/45/EC.

The scope of Directive 2009/16/EC on port State control is broadened with details of the kinds of inspections necessary to ensure the safe operation of ro-ro ferries and high-speed passenger craft.

Position of the rapporteur

The rapporteur supports and warmly welcomes the Commission proposal, which aims to put in place clear, simplified and more robust common rules for ro-ro ferries and high-speed passenger craft starting and finishing journeys in the EU. He believes this strong, coherent legal framework to be necessary to ensure not only a common safety level but also a competitive environment which is fair for all operators irrespective of their nationality or the flag of the vessel.

He considers in particular that the proposal will help simplify matters by eliminating legal redundancy and clarifying the scope of this Directive and that of Directive 2009/16/EC with regard to the port State inspection regime.

The proposal will also strengthen the Directive by stipulating biannual inspections (two inspections separated by a six-month period) and by resolving legal uncertainty without, however, jeopardising the simplification of the Directive.

Some specific points should be made. In recital 3, the rapporteur wishes to introduce more clarity between the scope of this Directive and that of Directive 2009/16/EC by setting out the different scenarios for regular services between Member States and non-Member States in order to mitigate against any legal uncertainty.

The rapporteur considers it necessary to define the competent authority of the Member State in Article 2, since this is referred to several times in the Directive and may well differ in nature between the Member States.

In the rapporteur's view the exemption in Article 5 from inspections of regular services as proposed by the Commission might threaten passenger safety and security. The rapporteur therefore recommends its removal from the proposal.

With regard to the costs arising when a vessel is immobilised, the rapporteur proposes making the text clearer by specifying that such costs in connection with the port shall be covered in the contractual relationship, thereby avoiding any legal uncertainty.

Finally, there is a need for some extra details with a view to making the text clearer.