

Summary of the workshop on the simplification of EU passenger ship safety legislation

BRUSSELS, 2 February 2016

Represented bodies: CLIA, Sea Europe, European Boating Industry (EBI), IACS, ECSA, Interferry, SOS Catastrophes

Following the completion of the REFIT exercise and to pave the way for finalising the simplification proposals, the Commission in the framework of the targeted consultation organised a stakeholder workshop. The basis for the discussion was the Roadmap 'REFIT legislative review simplifying the EU passenger ship safety legislation' and the forthcoming simplification measures.

The meeting was opened and chaired by Ms C. Berg, Head of Unit of DG MOVE D.2 Maritime Safety, who explained the context of the REFIT Fitness Check in the area of passenger ship safety. The Chair presented the overall framework and objectives of EU passenger ship safety legislation, highlighting the differences between regulation at international and EU level. Subsequently, the Chair briefly presented the main results of the fitness check and follow-up actions to be carried out in two phases. In the first phase, a number of simplification proposals will be put forward by the Commission, the preparation of which is the topic of this meeting. In the next phase, further actions will concern the review of Directive 2003/25/EC (the Stockholm agreement) and the development of the Small Craft Code/Guidelines. For this purpose, the current Passenger Ship Safety Expert Group will be enlarged to observers and all stakeholders will be invited to express their interest (call forthcoming this spring).

The general overview of the Fitness Check was followed by a detailed discussion on some of the envisaged measures, based on the questions raised by the stakeholders. The Chair also invited stakeholders to provide their feedback in writing via a response form on the published roadmap (to date, no feedback has been received).

Concrete issues raised by the participants:

A. Directive 2009/45/EC on safety rules and standards for passenger ships

ECSA enquired on the issue of the vessels above 24 m that are built from materials other than steel (or equivalent material) that do not currently fall under the scope of Directive 2009/45/EC. The Chair replied that the main objective is to develop guidelines based on functional requirements in cooperation with the Member States and stakeholders. These guidelines will be considered together with the development of the Code or guidelines for vessels below 24 m (Small Craft Code).

SOS Catastrophes expressed their concern for the vessels below 24 m and the fact that, from a safety perspective, it is difficult to understand why there is no regulation for these types of ships. The Chair clarified that the majority of these vessels are already outside the scope of Directive 2009/45/EC but that does not mean that these ships are not regulated – national standards apply. SOS Catastrophes also questioned why there should be different level of safety for small ships compared to big ones. The Chair noted that in view of subsidiarity and proportionality, it is important to have EU legislation where there is an added value and potential of achieving a level playing field. More generally, applying the same requirements is almost technically impossible, hence other risk reduction measures are put in place at national level (navigational rules etc.). Furthermore, the EU liability regime is a pro-active way to address safety in an indirect manner (evaluation is currently ongoing regarding its extension to vessels sailing closer to the coast). The Chair also highlighted that Member States are positive towards achieving a common ground and a minimum level of safety for all small ships, based on functional requirements.

EBI underlined the fact that they represent the shipbuilding sector for small ships, usually below 24m and are therefore interested on the potential of developing a Small Craft Code (although their vessels mainly fall under the Recreational Craft Directive). EBI also presented some technical comments, representing the concerns of the yards on the aluminium built ships; they were invited by the Chair to submit these in writing via the feedback form on the roadmap. The main issue concerned the impracticability of retro-fitting. Moreover, EBI underlined the potential impact on the weight and consequently fuel consumption of the vessels, higher emissions and possible also less space for passengers (leading to potential shift in the choice of the building material of the vessels). In addition, EBI also proposed that smaller vessels (30-35m) should have different, shorter evacuation times and proposed that it may be helpful to limit the obligation of insulation in certain areas only, such as the engine room or areas with higher risk of fire. On the proposed clarifications of the definitions, their opinion was positive.

The Chair recalled the need to ensure harmonised interpretation of the EU legislation and to achieve a common level of safety in a reasonable timeframe. Furthermore, the shift to modern materials is in this segment already happening and is unlikely to be initiated due to the intended aluminium clarification.

In this context, EBI questioned the appropriateness of the 24 m threshold, particularly with respect to the existing aluminium vessels that are built up to 30-35 m. The Chair clarified that there is no intention to open the discussion on this threshold stemming from international regulations and that there are very few flag changes on vessels below 24m. ECSA also noted that the SOLAS is not designed for ships built entirely in aluminium and transitional period would be needed.

Finally, EBI raised the issue of appropriateness of technical standards for Class C and D vessels. In the discussion, it was noted that Class C and D ships are not necessarily small ships but also large vessels.

B. 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

CLIA supported the proposal for the declaration of the nationality and stated that their members have already been reporting this element. ECSA also supported the inclusion of nationality of persons on board and called for retaining the principle of self-declaration. The Chair welcomed the support and explained the flexibility envisaged for smaller operators recording the number of persons on board only (via the Automatic Identification System).

On the National Single Window (NSW), ECSA suggested to wait for the full implementation and evaluation of the Reporting Formalities Directive before requiring all operators to use electronic means for recording the data. The Chair recalled that the NSW is supposed to be operational since June 2015 and, in any case, this would certainly be the case by the time the proposals enter into force.

On request of ECSA, the Chair explained the existing requirements concerning the transmission of passenger and crew lists on shore (at the latest 30 min after departure of the vessel).

ECSA also raised the current issue of recently introduced ID checks at national level in the context of the migration issue. The Chair underlined the fact that this is an exceptional situation and it should be dealt with as such. Explanations were also provided regarding the character of the measure and the notification process under the Schengen Regulation. Interferry intervened on the element of the burden of this measure which, although being a measure imposed by the government, currently falls on the operators.

On the same point SOS Catastrophes asked why in shipping there is a different logic compared to the Schengen regime of knowing exactly who is on board. The Chair explained the difference between the objective of the legislation on passenger ship safety and Schengen rules and recalled that for a safety perspective, ID verifications are not considered necessary.

C. Directive 1999/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services

No particular issue was raised under this Directive.