

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/18/EC of 17 March 1998, on safety rules and standards for passenger ships

(2003/C 20 E/06)

(Text with EEA relevance)

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(Submitted by the Commission on 25 March 2002)

EXPLANATORY MEMORANDUM

1. Background and objectives

In order to ensure harmonisation of safety regulations applying to passenger ferries operating within the EU, the European Commission in 1996 proposed a Directive to apply rules equivalent to those applicable at the international level in a harmonised manner also to the domestic trade. Council Directive 98/18/EC was subsequently adopted on 17 March 1998, and entered into force the same year. The rules included in Annex I to the Directive translate the relevant international instruments into safety requirements for vessels operating on domestic services. These requirements apply to all types of domestic passenger ferries, whilst taking into account their size, age and the characteristics of the sea area in which they are licensed to operate.

Although a relatively recently adopted Directive, the European Commission considers that certain provisions contained therein should be simplified or updated in order to provide sufficient protection for passengers on domestic journeys in the EU Member States. This Directive, therefore proposes to amend Council Directive 98/18/EC in the following way, to:

- update the Directive taking into account developments of international conventions and codes for maritime safety, notably the 2000 High Speed Craft Code,
- simplify and improve the procedure for the definition and publication of sea areas, a procedure that is crucial for the implementation of this directive, since the safety requirements applying to a specific vessel depend on the sea area in which it operates,
- introduce specific stability requirements for certain categories of ro-ro passenger ships operating on domestic services, equivalent to those in the proposed Directive on specific stability requirements for ro-ro passenger ships engaged on international voyages, and phase out ro-ro passenger ships which are not upgraded to comply with such stability requirements,
- require that Member States endeavour to make all its passenger vessels, regardless of size, age and the sea area in which they operate, safe and accessible for passengers with reduced mobility. This is in line with other proposals by the Commission to render other modes of transport accessible and safe for such passengers,
- remove the derogation for Greece, thus simplifying the Directive given the marginal impact of the derogation.

2. Justification of the proposed measures

The objective of the proposed measure is to amend existing Council Directive 98/18/EC. The justification is multi-fold. Despite being a relatively recently adopted Directive, certain problems related to its implementation have already been identified. The principal problem with the Directive at Community level, relates to the difficulty of verifying implementation, mainly since the current procedure for publication of sea areas is not practicable. This short-coming has an implication at Community level, and for all Member States, since the implementation of Directive 98/18/EC cannot be verified, without having a proper and workable arrangement in place for the designation and publication of sea areas.

It is furthermore justified to ensure that the Directive is made flexible to update certain articles in relation to developments at international level, in particular in relation to the safety of high speed crafts.

The introduction of more specific stability requirements for ro-ro passenger ships operating on domestic services is also justified, to improve safety and to ensure an equivalent level of safety between international and domestic services.

The introduction of safety guidelines for passengers with reduced mobility is in line with the principle introduced by the Amsterdam Treaty on combating discrimination on grounds of, among other things, disability and age.

Finally, it should be noted that certain provisions have been introduced that leave a large degree of flexibility to the Member States in line with the principle of subsidiarity, notably as regards safety and access requirements for passengers with reduced mobility.

3. **Content of the proposal**

The proposal contains two articles making modifications to the existing articles of Council Directive 98/18/EC, and articles to ensure the applicability of such modifications.

4. **Specific considerations**

4.1. *Definitions (Article 1.1)*

New definition 2 (w) on 'persons with reduced mobility' is introduced with reference to proposed new Article 6b. The definition used is that of Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 ⁽¹⁾, relating to special provisions for vehicles used for the carriage of passenger comprising more than eight seats in addition to the driver's seat, and amending Directives 70/156/EEC and 97/27/EC. This definition, recently agreed by Council and Parliament, has been found appropriate by the Commission for this Directive also, as it relates to safety and access requirements for a particular mode of public transport for passengers with reduced mobility. See also paragraph 4.6.

4.2. *Procedure for the publication of sea areas (Article 1.2)*

The Commission proposes a new simplified procedure for the establishment, notification and publication of a list of the sea areas A, B, C and D, which determine the specific safety requirements that apply to ships operating in each particular area. The modification is prompted by the problems encountered in the implementation of Directive 98/18/EC. It is crucial to modify this procedure to facilitate implementation by Member States and to monitor implementation at Community level.

Furthermore the Commission proposes that the notification of sea areas to the Commission, in accordance with the procedure laid down in Article 9, should be simplified.

The procedure proposed for the publication introduces more flexibility and transparency for the operators at Member State and Community level.

4.3. *Ending the derogation for Greek passenger ships (Article 2)*

Directive 98/18/EC includes a derogation for passenger vessels trading on domestic services in Greece only. Given the limited practical implication of this derogation, the Commission proposes to delete this derogation from the Directive with effect from 1.1.2005, in order to simplify the Directive.

⁽¹⁾ OJ L 42, 13.2.2002, p. 1.

4.4. *Stability requirements and phasing-out age (Article 1.3)*

The Commission's proposal introduces specific stability requirements for ro-ro passenger ships engaged in international voyages to/from EU ports. This would ensure an increased level of safety of ro-ro passenger vessels operating on the above routes, by 1 October 2010 at the latest.

Taking into account that ro-ro passenger ships encounter similar sea conditions in domestic voyages as in international voyages and in order to achieve the same level of safety for ships operating in different sea areas under the same sea conditions, the Commission proposes that domestic ro-ro passenger ships should also comply with specific stability requirements. The specific stability requirements shall apply to all new ro-ro passenger ships of classes A, B and C as from 1 October 2004. For new ro-ro passenger ships of class D, the application of the specific stability requirements is not justified, due to the restricted operational conditions applying to these ships. However, taking into account the difficulties that can be encountered in upgrading existing vessels of classes A and B, the Commission proposes to introduce as an alternative the possibility of phasing out such vessels at the age of 30 years if the specific stability requirements cannot be complied with. The same phasing out possibility shall apply to existing ro-ro passenger ships of classes C and D, unless they fully comply with the stability requirements set out in paragraph II-1/B/8 of Annex I of the Directive. This means full compliance of these vessels with the SOLAS 90 stability requirements, an obligation from which they are presently exempted.

4.5. *2000 High Speed Craft Code (Article 1.4)*

Directive 98/18/EC currently applies the High Speed Craft Code (HSC Code) as contained in IMO Maritime Safety Committee Resolution MSC 36(63) of 20 May 1994 in full to all High speed craft operating on domestic services. On 5 December 2000, the 2000 HSC Code was adopted, which will apply for all new vessels whose keels are laid or which are at a similar stage of construction on or after 1 July 2002. The HSC Code 2000 does not replace the previous code for vessels constructed before that date, but applies to new vessels only.

The Commission therefore proposes to amend Article 8(a) in order to allow the HSC Code 2000 to be made applicable through Directive 98/18/EC in a similar manner to the 1994 HSC Code, through the comitology procedure. This is in full accordance with the principle included in Directive 98/18/EC as regards Annex I and definitions in Article 2 in relation to International Conventions.

4.6. *Introducing safety and access requirements for passengers with reduced mobility (Article 1.1, 1.3, 1.4, 1.5)*

The Commission proposes to introduce specific safety requirements for persons with reduced mobility, who can make up up to 30 % of the population, and hence a large proportion of potential passengers. The measures proposed relate equally to the safety of and access to passenger ships for this group of passengers. The importance of all passengers, with or without reduced mobility, being guaranteed the same level of safety is crucial.

Council Directives 1999/35/EC ⁽¹⁾ and 98/41/EC ⁽²⁾ cover a rather limited area of safety and accessibility for people with reduced mobility since they concern specific services and assistance, and not necessarily general information about the ship and safety arrangements.

⁽¹⁾ Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services (OJ L 138, 1.6.1999, p. 1).

⁽²⁾ Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

The mechanism proposed is that guidelines are included in a new Annex III, which shall apply to all ships and craft operating on domestic services. Because some modifications to be retrofitted to existing ships may be unreasonable costly, the guidelines shall apply to existing ships and crafts as far as reasonable and practicable. Member States shall furthermore develop national action plans for how the existing fleet of passenger vessels shall be upgraded to comply with the guidelines in Annex III. These guidelines are in line with the International Maritime Organisation's Maritime Safety Committee Circular 735 (MSC/Circ.735) of 24 June 1996 entitled 'Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons needs'.

In this process, it is crucial that Member States consult organisations representative of persons with reduced mobility, to ensure that the measures taken are reasonable and acceptable, and will offer a real solution to the current problems encountered on board passenger ships.

The Member States are requested to communicate their national action plans on existing ships and report to the Commission on implementation of the article as regards new ships, new and existing high speed craft, as well as those existing ships certified to carry more than 400 passengers.

It is furthermore proposed that Annexes II and III be amended through comitology procedure in the light of experience, notably that gained by Member States in the process of implementing this Directive.

4.7. *Modifications to the mandate of the Committee for adaptations (Article 1.4)*

The Commission proposes to modify the mandate of the Committee as outlined in Article 8 of Directive 98/18/EC, for the following purposes:

- Article 8(a)(iii) is added to enable revision of the articles of the Directive relating to the HSC Code as outlined in paragraph 4.5.
- Article 8(c) is added to give the Committee the mandate to modify Annexes II and III as outlined in paragraph 4.6.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships⁽¹⁾ introduces a uniform level of safety of life and property on new and existing passenger ships and high speed craft, when both categories of ships and craft are engaged on domestic voyages, and lays down procedures for negotiation at inter-

national level with a view to a harmonisation of the rules for passenger ships engaged on international voyages.

- (2) The definition of sea areas is crucial to determine the application of Directive 98/18/EC to different classes of passenger ships. The Directive includes a procedure for the publication of lists of sea areas that has proved difficult to implement. It is therefore necessary to establish a functional and transparent procedure, enabling effective monitoring of the implementation of the Directive.
- (3) With a view to harmonising the level of safety applying to passenger ships across the Community, the derogation given to Greece in relation to the timetable for the application of the safety requirements should be deleted.
- (4) Directive (. . .)/EC on specific stability requirements for ro-ro passenger ships) introduces strengthened stability requirements for ro-ro passenger vessels operating on international services to and from Community ports, and this enhanced measure should also apply to such vessels operating on domestic services under the same sea conditions. Failure to apply such stability requirements should be ground for phasing out ro-ro passenger ships after certain years of operation.

⁽¹⁾ OJ L 144, 15.5.1998, p. 1.

(5) It is necessary to take account of changes that have been made to relevant international instruments, such as the International Maritime Organisation (IMO) conventions, protocols, codes and resolutions, and to do so in a flexible and rapid manner.

(6) By virtue of Directive 98/18/EC, the International Code for Safety of High Speed Craft contained in IMO Maritime Safety Committee Resolution MSC 36 (63) of 20 May 1994 applies to all high speed craft operating on domestic services. The IMO has adopted a new high speed craft code, the International Code for Safety of High Speed Craft, 2000 (2000 HSC Code), contained in IMO Maritime Safety Committee Resolution MSC 97 (73) of 5 December 2000, applying to all high speed craft constructed on or after 1 July 2002. It is important to ensure that Directive 98/18/EC can be updated in a flexible manner to apply such developments at the international level, also to high speed craft operating on domestic services.

(7) It is important to have regard to the level of safety and access guaranteed to persons with reduced mobility when travelling on passenger ships and high speed craft on domestic services in the Member States.

(8) Directive 98/18/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 98/18/EC is hereby amended as follows:

1. In Article 2 the following point is added:

‘(w) “persons with reduced mobility” means all people who have a difficulty when using public transport, such as disabled people (including people with sensory and intellectual impairments, and wheelchair users), people with limb impairments, people of small stature, people with heavy luggage, elderly people, pregnant women, people with shopping trolleys, and people with children (including children seated in push chairs).’

2. Article 4, paragraph 2 is replaced by the following:

‘2. Each Member State shall:

(a) establish and promptly update a list of sea areas under its jurisdiction, delimiting the zones for the all-year-round and, where appropriate, restricted periodical operation of the classes of ships, using the criteria for classes set out in paragraph 1;

(b) publish the list in a public database available on the Internet site of the competent maritime authority;

(c) notify to the Commission the location of such information, and when modifications are made to the list.’

3. Articles 6a and 6b are inserted:

‘Article 6a

Stability requirements and phasing-out of ro-ro passenger ships

1. All ro-ro passenger ships of Classes A, B, and C, the keel of which is laid or which are at a similar stage of construction on or after 1 October 2004 shall comply with the specific stability requirements set out in Directive [.../EC].

2. All ro-ro passenger ships of Classes A and B, the keel of which is laid or which are at a similar stage of construction before 1 October 2004 shall comply with the specific stability requirements set out in Directive [.../EC] by 1 October 2010, unless they are phased out on that date or on a later date on which they reach the age of 30 years but in any case not later than 1 January 2015.

3. All ro-ro passenger ships of Classes C and D, the keel of which is laid or which are at a similar stage of construction before 1 October 2004 shall comply with the provisions of paragraph II-1/B/8 of Annex I by 1 October 2010, unless they are phased out on that date or on a later date on which they reach the age of 30 years but in any case not later than 1 January 2015.’

‘Article 6b

Safety requirements for persons with reduced mobility

1. Member States shall take appropriate measures, based on the guidelines in Annex III to enable persons with reduced mobility to have safe access to all passenger ships of Classes A, B, C and D and to all high speed passenger craft, the keel of which is laid or which are at a similar stage of construction on or after 1 October 2004.

2. Member States shall co-operate with and consult organisations representing persons with reduced mobility on the implementation of the guidelines included in Annex III.

3. For the purpose of modification of passenger ships of Classes A, B C and D and high speed craft, the keel of which is laid or which are at a similar stage of construction before 1 October 2004, Member States shall apply the guidelines in Annex III as far as reasonable and practicable in economic terms.

Member States shall draw up a national action plan on how the guidelines shall be applied to such ships and craft. They shall communicate that plan to the Commission.

4. Member States shall report to the Commission on the implementation of this Article as regards all passenger ships referred to in paragraph 1, passenger ships referred to in paragraph 3 certified to carry more than 400 passengers and all high speed crafts, before 1 October 2007.'

4. Article 8, is amended as follows:

(a) in point (a) the following subpoint is inserted:

'and

(iii) the provisions relating to the High Speed Craft Code, and subsequent amendments thereto, referred to in Articles 4(3), 6(4), 10(3) and 11(3).'

(b) the following point (c) is added:

'(c) Annexes II and III may be amended to improve the technical specifications, in the light of experience.'

5. Annex III is added, as set out in the Annex.

Article 2

Point (g) of Article 6 (3) of Directive 98/18/EC is deleted with effect from 1 January 2005.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 2004 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 4

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 5

This Directive is addressed to the Member States.

ANNEX

'ANNEX III

GUIDELINES FOR SAFETY REQUIREMENTS FOR PASSENGER SHIPS AND HIGH SPEED CRAFT FOR PERSONS WITH REDUCED MOBILITY

(as referred to in Article 6b)

1. Access to the ship

The ships should be constructed and equipped in such a way that a person with reduced mobility can embark and disembark easily and safely, either unassisted or by means of ramps, elevators or lifts. Directions to such access should be posted at the other accesses to the ship and at other appropriate locations throughout the ship.

2. Signs

Signs provided on a ship to aid passengers should be accessible and easy to read for persons with reduced mobility, and be positioned at key points.

3. Means to communicate messages

The operator should have the means onboard the vessel to visually and verbally provide announcements, such as regarding delays, schedule changes and on-board services, to persons with different forms of reduced mobility.

4. Alarm

Alarm/call buttons shall be available and accessible to passengers with reduced mobility.

5. Additional requirements ensuring mobility inside the ship

Handrails, corridors and passageways, doorways and doors shall accommodate the movement of a person in a wheelchair. Elevators, vehicle decks, passenger lounges, accommodation and washrooms shall be designed in order to be accessible in a reasonable and proportionate manner to persons with reduced mobility.'
