

COMMISSION IMPLEMENTING DECISION (EU) 2017/711**of 18 April 2017****on a request for derogation by the Kingdom of Denmark and the Federal Republic of Germany in accordance with Article 9(4) of 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***(notified under document C(2017) 2371)***(Only the Danish and German texts are authentic)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the 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 ⁽¹⁾, and in particular Article 9(4) thereof,

Whereas:

- (1) Directive 98/41/EC aims at enhancing the safety and possibilities of rescue of passengers and crew on board passenger ships and ensuring that search and rescue and the aftermath of any accident can be dealt with more effectively.
- (2) Article 5(1) of Directive 98/41/EC requires certain information to be recorded regarding every passenger ship that departs from a port located in a Member State to undertake a voyage of more than twenty miles from the point of departure.
- (3) Article 9(4) of Directive 98/41/EC allows Member States to request the Commission to derogate from this requirement.
- (4) By letter of 29 September 2015, the Kingdom of Denmark and the Federal Republic of Germany transmitted to the Commission a request to derogate from the requirement to record information specified in Article 5(1) of Directive 98/41/EC concerning persons on board all passenger ships travelling on the route Rostock-Gedser and vice versa.
- (5) The Commission requested on 5 November 2015 additional information from the Kingdom of Denmark and the Federal Republic of Germany, in order to allow it to assess the request. On 25 May 2016, the Kingdom of Denmark and the Federal Republic of Germany submitted their response.
- (6) The Commission, assisted by EMSA, assessed the derogation request on the basis of the information at its disposal.
- (7) The Kingdom of Denmark and the Federal Republic of Germany provided the following information: (1) the annual probability of the significant wave height's exceeding two metres is less than 10 % on the identified routes; (2) the ships to which the derogation would apply are engaged in regular services; (3) the voyages do not exceed thirty miles from the point of departure; (4) the sea area where the passenger ships are sailing is provided with shore-based navigational guidance and reliable weather forecast services as well as adequate and sufficient search and rescue facilities; (5) the profile of the journey and the schedule of the voyages are not compatible with registering passenger details in a synchronised way with land transport; and (6) the derogation request would not have any adverse effect on competition.
- (8) The final outcome of the assessment demonstrates that all the conditions for the approving the derogation are fulfilled.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships,

⁽¹⁾ OJ L 188, 2.7.1998, p. 35.

HAS ADOPTED THIS DECISION:

Article 1

The derogation request of the Kingdom of Denmark and the Federal Republic of Germany pursuant to Article 9(4) of Directive 98/41/EC regarding recording information specified in Article 5(1) of this Directive for persons on board all passenger ships in regular service sailing on the route Rostock-Gedser and vice versa, is hereby approved.

Article 2

This Decision is addressed to the Kingdom of Denmark and the Federal Republic of Germany.

Done at Brussels, 18 April 2017.

For the Commission
Violeta BULC
Member of the Commission
