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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
Subject: Proposal for a Directive of the European Parliament and of the Council amending Council 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 and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States
- Outcome of the European Parliament's first reading
(Strasbourg, 2 to 5 October 2017)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Izaskun BILBAO BARANDICA (ALDE, ES) presented one compromise amendment (amendment 30) to the proposal for a Directive, on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 4 October 2017, the plenary adopted the compromise amendment (amendment 30) to the proposal for a Directive. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P8_TA(2017)0374

Registration of persons sailing on board passenger ships operating to or from ports of the Member States *I**

European Parliament legislative resolution of 4 October 2017 on the proposal for a directive of the European Parliament and of the Council amending Council 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 and amending Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States (COM(2016)0370 – C8-0209/2016 – 2016/0171(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0370),
 - 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 (C8-0209/2016),
 - 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 2016³,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 21 June 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee of Civil Liberties, Justice and Home Affairs (A8-0168/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

³ OJ C 34, 2.2.2017, p. 172.

- Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 4 October 2017 with a view to the adoption of Directive (EU) 2017/... of the European Parliament and of the Council amending Council 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 and Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

After consulting the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure⁵,

⁴ OJ C 34, 2.2.2017, p. 172.

⁵ Position of the European Parliament of 4 October 2017.

Whereas:

- (1) Accurate and timely information on the number *or identity* of persons on board a ship is essential for the preparation and effectiveness of search and rescue operations. In the event of an accident at sea, full and complete cooperation between the competent national authorities of the state or states involved, the ship operator and their agents can contribute significantly to the effectiveness of the operations. Certain aspects of that cooperation are regulated by Council Directive 98/41/EC⁶.
- (2) **The results** of the Regulatory Fitness and Performance Programme (REFIT) fitness check and the experience **gained in the course of implementing Directive 98/41/EC** have revealed that information on persons on board is not always readily available to the competent authorities when they need it. **In order to address this situation**, the current requirements of Directive 98/41/EC should be brought in line with the requirements to report data electronically, leading to greater efficiency. Digitalisation will also make it possible to **facilitate access to** information concerning a significant number of passengers in the event of an emergency or in the aftermath of an accident *at sea*.

⁶ 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).

- (3) Over the past 17 years, **significant** technological progress has been made as regards the means of **communication** and **the storage of data on ship movements**. A number of mandatory ship reporting systems have been set up along Europe's **coastlines**, in accordance with the relevant rules adopted by the International Maritime Organization (IMO). Both Union law and national law ensure that ships comply with the reporting requirements in force under those systems. **It is now necessary to make progress as regards technological innovation, building on the results achieved thus far, including at international level, and ensuring that technological neutrality is always maintained.**
- (4) The collection, transmission and sharing of ship-related data have been enabled, simplified and harmonised by the National Single Window referred to in Directive 2010/65/EU of the European Parliament and of the Council⁷ and **the Union Maritime Information and Exchange System** (SafeSeaNet) referred to in Directive 2002/59/EC of the European Parliament and of the Council⁸. The information on the persons on board required by Directive 98/41/EC should therefore be **reported** in the National Single Window **which** allows the competent authority to readily access the data in the event of an emergency or in the aftermath of an accident **at sea**. **The number of persons on board should be reported in the National Single Window using appropriate technical means, which should be left to the discretion of Member States. Alternatively, it should be reported to the designated authority by means of the Automatic Identification System.**

⁷ Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).

⁸ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

- (5) *To facilitate the provision and exchange of information reported under this Directive and in order to reduce the administrative burden, Member States should use the harmonised reporting formalities established by Directive 2010/65/EU. In the event of an accident affecting more than one Member State, the Member States should make information available to other Member States via the SafeSeaNet system.*
- (6) *To allow Member States a sufficient period to add new functionalities to the national single windows, it is appropriate to provide for a transitional period during which Member States have the possibility to maintain the current system for registering persons on board passenger ships.*
- (7) *Progress made in developing national single windows should serve as a basis for moving towards a European single window environment in the future.*

- (8) *Member States should encourage operators, and in particular smaller operators, to use the National Single Window. However, in order to ensure compliance with the principle of proportionality, Member States should have the possibility to exempt, under specific conditions, smaller operators who do not yet use the National Single Window and who mainly operate short domestic voyages of less than 60 minutes from the obligation to report in the National Single Window the number of persons on board.*
- (9) *In order to take account of the specific geographical location of the islands of Heligoland and Bornholm and the nature of their transport connections to the mainland, Germany, Denmark and Sweden should be given additional time to collect the list of persons on board and, during a transitional period, to use the current system to communicate this information.*
- (10) *Member States should continue to have the possibility to lower the 20 mile threshold for recording and reporting the list of persons on board. This right includes voyages where passenger ships carrying a high number of passengers make successive calls between ports at a distance of less than 20 miles during the course of a single longer voyage. In such cases, Member States should be allowed to lower the 20 mile threshold so as to make it possible for the information required by this Directive to be recorded in respect of passengers on board who embarked in the first or intermediate ports.*

- (11) To *provide* relatives *with timely and reliable information in the* case of an accident, *to reduce* unnecessary delays in the consular assistance and other services, *and to facilitate identification procedures, the data* communicated ■ should include information on *the* nationality of persons on board. The list of required data entries for voyages of over 20 ■ miles should be simplified, clarified and, as far as possible, aligned with reporting requirements *for* the National Single Window.
- (12) Given the improvements in the electronic means of data recording, and taking into account the fact that personal data is collected before the ship's departure, the 30 minutes delay currently provided for by Directive 98/41/EC should be *reduced to 15 minutes*.
- (13) *It is important that clear instructions to be followed in the event of an emergency be provided for every person on board, in accordance with international requirements.*

- (14) To increase legal clarity and to enhance consistency with related Union legislation, and in particular Directive 2009/45/EC of the European Parliament and of the Council⁹, a number of outdated, ambiguous and confusing references should be updated or deleted. The *definition* of 'passenger ship' should be *aligned to other Union legislation, in a way that does not exceed the scope of this Directive. The definition* of 'protected sea area' should be replaced by a concept which is *aligned* with Directive 2009/45/EC *for the purposes of the exemptions under this Directive, ensuring the proximity of search and rescue facilities*. The definition of 'passenger registrar' should be amended to reflect the new duties that no longer include *the keeping of information. The definition of 'designated authority' should cover competent authorities having direct or indirect access to the information required by this Directive*. The corresponding requirements for company passenger registration systems should be deleted.
- (15) *This Directive should not apply to pleasure yachts or pleasure craft. In particular, it should not apply to pleasure yachts or pleasure craft when they are bareboat chartered and not subsequently engaged in trade for the purposes of carrying passengers.*
- (16) Member States should remain responsible for ensuring compliance with the data registration requirements under Directive 98/41/EC, namely as regards the accuracy and timely registration of the data. *To ensure consistency of information, it should be possible to carry out random checks.*

⁹ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

- (17) In *so far* as measures **provided for in Directives 98/41/EC and 2010/65/EU** entail the processing of personal data, **that processing** should be carried out in accordance with Union law on the protection of personal data, **in particular Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁰, and Regulation (EC) No 45/2001 of the European Parliament and of the Council¹¹**. In particular **and without prejudice to other legal obligations in compliance with data protection law**, personal data collected **in accordance with** Directive 98/41/EC should not be processed **or** used for any other purpose and should not be retained longer than necessary for the purposes of Directive 98/41/EC. **Personal data should therefore be erased automatically and without undue delay once a ship's voyage has been safely completed or, as applicable, when an investigation or a judicial proceeding taking place during the aftermath of an accident or emergency has been concluded.**
- (18) **Taking into account the state of the art and the cost of implementation, each company should implement appropriate technical and organisational measures in order to protect personal data processed pursuant to this Directive against accidental or unlawful destruction or accidental loss, alteration, and unauthorised disclosure or access, in line with Union and national legislation on data protection.**

¹⁰ **Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).**

¹¹ **Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).**

- (19) In view of the principle of proportionality and given that it is in the passenger's best interest to provide genuine information, the current means of personal data collection on the basis of self-declaration by passengers is sufficient for the purposes of Directive 98/41/EC. At the same time, electronic means of data registration and verification should ensure that unique information is registered for every person on board.
- (20) To increase transparency and to facilitate the notification by Member States of exemptions and requests for derogation, a database should be established and maintained for *that* purpose by the Commission. It should include the notified measures in their draft and adopted form. *The adopted measures should be made publicly accessible.*
- (21) *Data relating to the notification of exemptions and requests for derogation by the Member States should be harmonised and coordinated as necessary in order to ensure that the use of such data is as effective as possible.*

- (22) In view of the changes brought about by the Treaty on the Functioning of the European Union (TFEU), the powers conferred on the Commission to implement Directive 98/41/EC should be updated correspondingly. Implementing acts should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².
- (23) In order to take account of developments at international level and to increase transparency, the power to adopt acts in accordance with Article 290 (TFEU), should be delegated to the Commission in respect of *not applying, for the purposes of this Directive*, amendments to the international instruments *if necessary*. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (24) In view of the full monitoring cycle of European Maritime Safety Agency visits, the Commission should evaluate the implementation of Directive 98/41/EC by ..[seven years after the date referred to in the second subparagraph of Article 3(1)] and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all information necessary for *that* evaluation.
- (25) To reflect the changes brought to Directive 98/41/EC, information on persons on board should be included in the list of reporting formalities referred to in Part A of the Annex to Directive 2010/65/EU.
- (26) *In order not to impose a disproportionate administrative burden on landlocked Member States which have no seaports and which have no passenger ships flying their flag that fall within the scope of this Directive, such Member States should be allowed to derogate from the provisions of this Directive. This means that as long as this condition is fulfilled, they are not obliged to transpose this Directive.*
- (27) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered formal comments on 9 December 2016.
- (28) Directives 98/41/EC and 2010/65/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Amendments to Directive 98/41/EC

Directive 98/41/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) the second indent is replaced by the following:

"– 'passenger ship' shall mean a ship or a high-speed craft which carries more than 12 passengers,";

(b) the sixth indent is replaced by the following:

"– 'passenger registrar' shall mean the responsible person designated by a company to fulfil the ISM Code obligations, *where applicable*, or a person designated by a company as responsible for the transmission of information on persons who have embarked on a company passenger ship,";

(c) the *seventh* indent is replaced by the following:

"– *'designated authority' shall mean the competent authority of the Member State responsible for search and rescue or concerned with the aftermath of an accident, having access to the information required under this Directive,*,";

(d) *the ninth indent is deleted;*

(e) in the tenth indent, the introductory phrase is replaced by the following:

"– 'regular service' shall mean a series of ship crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:";

(f) the following indent is added:

"– 'port area' shall mean an area as defined in point (r) of Article 2 of Directive 2009/45/EC,";

(g) the following indent is added:

"– 'pleasure yacht *or pleasure* craft' shall mean a vessel which is not engaged in trade, regardless of its means of propulsion.";

(2) Article 3 ■ is replaced by the following:

"Article 3

1. This Directive shall apply to passenger ships, with the exception of:

– ships of war and troop ships,

■

– pleasure yachts and *pleasure* craft,

■

– ships exclusively engaged in port areas *or inland waterways*.

2. Member States which do not have seaports and which have no passenger ships flying their flag that fall within the scope of this Directive may derogate from the provisions of this Directive except for the obligation set out in the second subparagraph.

Those Member States which intend to avail themselves of such derogation shall communicate to the Commission at the latest on [date of transposition of this amending Directive] if the conditions are met and shall inform the Commission annually thereafter of any subsequent change. Such Member States may not allow passenger ships that fall within the scope of this Directive to fly their flag until they have transposed and implemented this Directive.";

(3) in Article 4, paragraph 2 is replaced by the following:

"2. Before the passenger ship departs, the number of persons on board shall be communicated to the master of the ship, and ***reported by appropriate technical means*** in the single window established pursuant to Article 5 of Directive 2010/65/EU of the European Parliament and of the Council*, or, ***if the Member State so chooses***, communicated to the designated authority by means of ***the Automatic Identification System***.

For a transitional period of six years from ... [date of entry into force of this amending Directive], Member States may continue to allow that information to be communicated to the company's passenger registrar or to the shore-based company system that performs the same function, instead of requiring it to be reported in the single window or to the designated authority by means of the Automatic Identification System.

* Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).";

(4) Article 5 is replaced by the following:

"Article 5

1. Where a passenger ship departs from a port located in a Member State in order to undertake a voyage of which the distance sailed from the point of departure to the next port of call exceeds 20 miles, the following information shall be recorded:
 - the family names of the persons on board, their forenames, their gender, their nationality, their *dates* of birth,
 - when volunteered by a passenger, information concerning █ special care or assistance *that might be needed* in *an* emergency █ ,
 - *if the Member State so chooses, when volunteered by the passenger, a contact number in case of an emergency.*

2. The information listed in paragraph 1 shall be collected before the passenger ship's departure and **reported** in the single window established pursuant to Article 5 of Directive 2010/65/EU upon the passenger ship's departure but in no case later than 15 minutes after its departure.
3. *For a transitional period of six years from ... [date of entry into force of this amending Directive], Member States may continue to allow that information be communicated to the company's passenger registrar or to the shore-based company system that performs the same function, instead of requiring it to be reported in the single window.*
4. *Without prejudice to other legal obligations that comply with Union and national legislation on data protection, personal data collected for the purposes of this Directive shall not be processed and used for any other purpose. Such personal data shall always be handled in accordance with Union law on data protection and privacy and shall be erased automatically and without undue delay once it is no longer needed."*

(5) in Article 6, paragraph 2 is replaced by the following:

"2. Each Member State shall, as regards every passenger ship that flies the flag of a third country, departs from a port located *outside* the Union and is bound for a port located in that Member State, require the company to ensure that the information specified in Articles 4(1) and 5(1) is provided *in accordance with* Articles 4(2) and 5(2).";

(6) Article 8 is replaced by the following:

"Article 8

Each company assuming responsibility for operating a passenger ship shall, where required under Articles 4 and 5 of this Directive, appoint a passenger registrar responsible for *reporting* the information referred to in those provisions in the single window established pursuant to Article 5 of Directive 2010/65/EU or *to the designated authority* by means of *the* Automatic Identification System.

Personal data collected in accordance with Article 5 of this Directive shall be kept by the company no longer than is necessary for the purposes of this Directive, and in any event only until the moment the *ship's voyage in question has been safely completed and the data has been reported* in the single window established pursuant to Article 5 of Directive 2010/65/EU. Without prejudice to other *specific legal obligations under Union or national law, including for statistical purposes*, once the information is no longer needed for this purpose, it shall be *erased automatically and without undue delay*.

Each company shall ensure that information concerning passengers who have declared a need for special care or assistance in emergency situations is properly recorded and communicated to the master before the passenger ship departs.";

(7) Article 9 is amended as follows:

(a) paragraph 2 is amended as follows:

- *point (a) is deleted;*
- points (b) and (c) are replaced by the following:

"2. *A Member State from whose port a passenger ship departs may exempt it from the obligation to report the number of persons on board in the single window established pursuant to Article 5 of Directive 2010/65/EU, provided that the ship concerned is not a high speed craft, it operates regular services of less than one hour between port calls exclusively in sea area D established pursuant to Article 4 of Directive 2009/45/EC and the proximity of search and rescue facilities is ensured in that sea area.*

A Member State may exempt passenger ships sailing between two ports or from and to the same port without intermediate calls from the obligations laid down in Article 5 of this Directive, provided that the ship concerned operates exclusively in *sea area D established pursuant to Article 4 of Directive 2009/45/EC*, and the proximity of search and rescue facilities is ensured in that sea area.";

– *following subparagraph is added:*

"By way of derogation from Article 5(2) and without prejudice to the transitional period laid down in Article 5(3), the following Member States shall have the right to apply the following exemptions:

- (i) *Germany may extend the periods for the collection and reporting of information referred to in Article 5(1) to one hour after departure in the case of passenger ships operating from and to the Island of Heligoland, and*
- (ii) *Denmark and Sweden may extend the periods for the collection and reporting of information referred to in Article 5(1) to one hour after departure in the case of passenger ships operating from and to the Island of Bornholm.";*

(b) in paragraph 3, points (a) and (b) are replaced by the following:

"(a) the Member State shall without delay notify the Commission of its decision to grant an exemption from the obligations laid down in Article 5, giving its substantive reasons for doing so. This notification shall be carried out by means of a database established and maintained by the Commission for that purpose, to which the Commission *and Member States shall have access. The Commission shall make the adopted measures available on a publicly accessible website;*

- (b) if within six months of such notification the Commission considers that *the exemption* is not justified or could have adverse effects on competition, the Commission may adopt implementing acts, requiring the Member State to amend or withdraw its decision. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).";
- (c) in paragraph 4, the third subparagraph is replaced by the following:

"The request shall be submitted to the Commission by means of *the* database referred to in paragraph 3. If within six months of such request the Commission considers that *the* derogation is not justified or could have adverse effects on competition, the Commission may adopt implementing acts, requiring the Member State to amend or not to adopt the proposed decision. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).";

(8) Article 10 is replaced by the following:

"Article 10

Member States shall ***ensure that companies have a procedure for data registration in place which guarantees that information*** required by this Directive ***is reported in an accurate and timely manner.***

Each Member State shall designate the authority that will have access to the information required under this Directive. Member States shall ensure that, in the event of an emergency or in the aftermath of an accident, that designated authority has immediate access to the information required under this Directive.

Personal data collected in accordance with Article 5 shall be kept by Member States no longer than is necessary for the purposes of this Directive, and in any event, no longer than:

- (a) until the moment the ship's voyage in question has been safely completed, ***but in any case not longer than 60 days after the ship's departure***; or
- (b) in the event of emergency or in the aftermath of an accident, until any investigation or judiciary proceedings have been completed.

Without prejudice to other ***specific legal*** obligations ***under Union or national law, including obligations for statistical purposes***, once the information is no longer needed for the purposes of this Directive, it shall be ***erased automatically and without undue delay.***";

(9) Article 11 is replaced by the following:

"Article 11

1. For the purposes of this Directive the required data shall be collected and recorded in such a way that no undue delay is caused for passengers embarking or disembarking the vessel.
2. A multiplicity of data collection on the same or similar routes shall be avoided.";

(10) *The following article is inserted:*

"Article 11a

1. *The processing of personal data pursuant to this Directive shall be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council*.*
2. *The processing of personal data by Union institutions and bodies pursuant to this Directive, such as in the Single Window and the SafeSeaNet, shall be carried out in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council**.*

* *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*

** Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).";

(11) *Article 12 is replaced by the following:*

"Article 12

1. *In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid a serious and unacceptable threat to maritime safety or incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 12a, amending this Directive in order **not to apply, for the purposes of this Directive, an amendment to the international instruments referred to in Article 2.***
2. *Those delegated acts shall be adopted at least three months before the expiration of the period established internationally for the tacit acceptance of the amendment concerned or the envisaged date for the entry into force of said amendment. In the period preceding the entry into force of such delegated act, Member States shall refrain from any initiative intended to integrate the amendment in national legislation or to apply the amendment to the international instrument concerned."*

(12) the following Article ■ is inserted:

"Article 12a

1. The power to adopt delegated acts referred to in *Article* 12 is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in *Article* 12 shall be conferred on the Commission for *a* period of *seven years* from [the date of entry into force of this amending Directive]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. 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.***
3. The delegation of power referred to in *Article* 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to **Article** 12 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;

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(13) Article 13 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council* shall apply.

* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).";

(b) paragraph 3 is deleted;

(14) the following Article ■ is inserted:

"Article 14a

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council by.. [seven years after the date referred to in the second subparagraph of Article 3(1)].

By... [three years after the date referred to in the second subparagraph of Article 3(1)], the Commission shall submit to the European Parliament and to the Council an interim report on the implementation of this Directive."

Article 2

Amendments to the Annex to Directive 2010/65/EU

In Part A of the Annex to Directive 2010/65/EU, the following point is added:

"7. Information on persons on board

Articles 4(2) and 5(2) of 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)."

Article 3

Transposition

1. By ...[**24** months after the entry into force], Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from [**24** months after the entry into force].

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

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

Article 5

Addressees

This Directive is addressed to the Member States.

Done,

For the European Parliament

The President

For the Council

The President
