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#### NOTE

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/16/EC on port State control [doc 10126/23 - COM(2023)272- final Interinstitutional file -2023/172 (COD)] – Opinion of the European Economic and Social Committee

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Delegations will find, in annex, the opinion of the European Economic and Social Committee on the above-mentioned proposal.

This opinion is available in all language versions on the following website:

<https://dmsearch.eesc.europa.eu/search/opinion>

# OPINION

European Economic and Social Committee

## Port State control

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Revision of port State control Directive  
[COM(2023) 271 final – 2023/0165 (COD)]

TEN/818

Rapporteur: **Panagiotis GKOFAS**

Referral	European Parliament, 12/06/2023
	Council of the European Union, 09/06/2023
Legal basis	Articles 100(2) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	06/09/2023
Adopted at plenary	20/09/2023
Plenary session No	581
Outcome of vote (for/against/abstentions)	216/1/1

## 1. Conclusions and recommendations

- 1.1 The EESC underlines the fact that EU Directive 2009/16/EC on port State control (PSC) has performed efficiently during the 12 years of its implementation. According to stakeholders and European institutions' impact assessment reports, PSC has contributed significantly to the goal of increasing the safety, security and sustainability of maritime transportation, while also boosting cooperation and best practice exchanges between Member States.
- 1.2 New challenges related to climate change, greening, digitalisation and better monitoring of various types of ships, vessels and maritime activities call for further amendments of the current regulatory framework. Thus, the revision of Directive 2009/16/EC is considered vital for the sector's further adaptation to new monitoring challenges, sustainability goals and smooth maritime market consolidation.
- 1.3 In administrative terms, the European Commission will ensure that there will be no significant overlaps or contradictions with regard to the implementation and revision of the Flag State Directive<sup>1</sup>. The EESC underlines how important it is that the new EU regulation guarantee consistency with the IMO regulatory framework.
- 1.4 The transition to a climate-neutral and digitalised maritime economy is a key driver for applying a more concrete and simplified framework for targeted inspections, while also providing incentives to vessel owners to upgrade the environmental performance of their fleets.
- 1.5 The EESC shares the common concerns about the need to align Member State and EU legislation with international standards, as set out in international conventions and agreements such as the most recent acts and initiatives of the Paris MoU and the International Maritime Organization (IMO). A transition period of one to three years should be implemented to enable the Member States to adapt effectively to the revised legislation.
- 1.6 The amendments of the Directive<sup>2</sup> must take into account core EU policy priorities related to the Green Deal, the EU and UN Sustainable Development Goals agenda, human and workers' rights and social cohesion. Thus, the revised parts of the Directive must provide clarity on minimum working conditions for seafarers, the conservation of waters and fish, and environmental protection as a whole.
- 1.7 The EESC welcomes the amendment set out in point 3 (Article 1 of the proposal of amendment of 2009/16/EC, article 5), where there is a direct reference to the adjustment of the algorithm for calculating the total number of potential inspections (the so-called "fair share"). This algorithm takes into account the number of other port inspections, which is not directly linked to a calculation of higher risks or volumes of transportation.

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0021&qid=1603460905182>

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023PC0271>

- 1.8 The provision set out in point 7 is also important (Article 8a of the proposal of amendment), *force majeure*), since it offers Member States more flexibility by allowing inspections to be rearranged or omitted where there are serious incidents of *force majeure*, based on well-documented evidence.
- 1.9 A careful review and redesign of environmental criteria must be conducted on a permanent basis, in order to avoid competition distortions in the international shipping sector, at the expense of European fleets.
- 1.10 PSC requires a qualitative and quantitative upgrade of personnel, since the new regulation, based on IMO rules, is more demanding, and inspection skills must be improved technically and operationally. It is therefore essential to finance the upskilling and reskilling of PSC officers via up-to-date training courses. The EESC welcomes the fact that the European Maritime Safety Agency (EMSA) has been made responsible for designing and offering training courses to the EU Member States' agencies to enable them to better fulfil the Directive's provisions.
- 1.11 The EESC embraces the intention of the European Commission to expand the role of EMSA; nevertheless, it is obvious that the effective performance of all these prescribed duties requires additional human and financial resources. EMSA must be further supported in terms of instruments, financial means, expertise and personnel in order to upgrade the level of training and develop know-how for port State control. This acquired knowledge should be disseminated to national authorities, which also need to advance their expertise and level of cooperation.
- 1.12 Member States must ensure that there will be a common, unified and mutually approved methodology and certification process for digital monitoring and exchanges of information for all types of vessels. The EESC supports the amended clauses (points 16 and 26) which encourage the use of electronic certificates (which also entails a common template, use of a common validation tool and a common repository at EU level).
- 1.13 New investment in technological and digital means and upgrades of port infrastructure will be very important in meeting the objectives of the revision, and the EU budget must make provision for such types of funding.
- 1.14 Ship risk assessments must not only entail restrictive measures for compliance, but also provide a period of adjustment, especially on ships that do not often present deficiencies. At the same time, ship owners must be given instructions and recommendations on how to continuously improve and renovate their fleet.
- 1.15 The EESC recommends that the Commission review the implementation of the amended Directive less than ten years after its adoption (see point 22), and that this also be accompanied by an intermediate evaluation report drawn up by the European Parliament, the EESC and national stakeholders. The engagement of social partners is vital towards this direction.

## 2. Background

- 2.1 PSC involves all the necessary procedures for the inspection of foreign ships in national ports to ensure that the competencies of the crew, the working conditions, the navigation capacity of the ship and its mission comply with international regulations, as approved in national and European laws.
- 2.2 PSC is an effective tool which offers the EU's blue ecosystem the potential to address the risks associated with irresponsible sea navigation, substandard shipping, safety and security deficiencies and general attitudes that directly or indirectly harm or lead to negative spillovers in sea and coastal ecosystems.
- 2.3 In 2018, the European Commission conducted an *ex post* evaluation of the implementation of Directive 2009/16/EC. The main conclusions in this evaluation were that the PSC Directive had been quite effective and inclusive in the preceding years, which had contributed significantly to the implementation of IMO and EU standards, but that there were aspects that needed to be further reviewed and improved. Since the previous decades, certain significant technological and legal updates, policy priorities and new challenges have emerged in the field of maritime transportation.
- 2.4 The European Commission presented a proposal for a new Directive for PSC in June 2023, along with other revision initiatives on maritime transportation.
- 2.5 The aim of the revision of the PSC Directive is to take into account additional parameters and criteria for exercising control over aspects such as ship environmental records and company risk profiles, and to ensure the effective application of international rules.
- 2.6 The revision will look at the possibility of extensively using electronic data to allow for more targeted inspections. This would enable inspections to concentrate on operational issues rather than just being a documentation check. Moreover, it will allow for a greater focus on environmental issues and the development of an incentive mechanism for newer/greener and quality shipping.
- 2.7 The revised Directive seeks to enhance Member States' capacity building for the recruitment and training of suitably qualified inspectors and to make use of the inspection database to enable the burden to be shared better between Member States.
- 2.8 The revision is anticipated to broaden the scope of inspections to include foreign fishing vessels, which have been shown to be particularly dangerous. It also updates the way ships are inspected and it will attach more importance to the environmental performance of ships in determining their risk profile, whereby Member States' capacity will be improved. The scope of this Directive would be extended to fishing vessels, and PSC will be further digitalised.
- 2.9 The revision initiative is also linked to the Commission's REFIT programme, which aims to harmonise, align and simplify the maritime regulatory framework. The initiative focuses on improving the safety profile of shipping vessels and supporting Member States' authorities in meeting their inspection and reporting obligations.

### 3. General comments

- 3.1 The core of the EU PSC policy is to enforce a harmonised inspection system based on international IMO and Paris MoU standards. The PSC Directive has been properly transposed and implemented by the Member States, thus contributing to the increased level of safety of ships calling at EU ports.
- 3.2 According to the Commission's impact assessment<sup>3</sup>, the proposed revision of the Directive focuses on the following objectives:
- "...include fishing vessels within the scope; develop a system for the harmonised use and acceptance of electronic statutory certificates throughout the EU; mandate the use of available electronic information, electronic certificates, etc.; develop more pro-active European Maritime Safety Agency (EMSA) training programmes for PSC officers regarding safety, security and pollution prevention; establish an incentive scheme for well-performing and/or environmentally-friendly ships; strengthen the rules regarding the banning mechanism, so that substandard ships that have been repeatedly found to digress from the applicable standards can be banned from EU waters no matter what their flag is; regulate the conditions and time frame for postponement of inspections; examine the impact that green technology and new fuels, as well as autonomous shipping, will have on PSC."
- 3.3 PSC inspections complement the implementation of the Flag State Directive and are often referred to as a "second line of defence" against substandard shipping. It is essential to align PSC inspections with flag State requirements to reduce inefficiencies and poor performance in vessels and ships calling at EU ports.
- 3.4 New types of risks are emerging, new administrative tasks must be carried out and therefore new skills need to be developed in these demanding port inspection procedures. EMSA must assist the Member States at operational and administrative level, so as to improve their monitoring performance and the skills of their personnel, who must adapt to new technological, digital and green challenges. Workers' safety, security and pollution risks are additional significant factors that have to be assessed by port authorities and Member States in a unified and harmonised manner.
- 3.5 It has been reported that inspections currently lack the tools and digital capabilities to become more effective by increasing the use of electronic versions of certificates and other documents. It is essential to develop a unified, digital registry of incoming and outcoming vessels and ships in all European ports, making further progress based on IMO regulations and international conventions.
- 3.6 Member States with limited human and financial resources, which are often the first to be called on in the EU, are having difficulty in effectively complying with their inspection commitments. The EESC sees investment in personnel and infrastructure as a preliminary step towards harmonisation and the equal allocation of administrative burdens across Member States.
- 3.7 The current targeting system does not allow for more emphasis to be placed on environmental aspects and for "greener" vessels to be rewarded. Therefore, it is necessary to restructure the incentive mechanism and risk profile assessment of ships and vessels calling at EU ports. The "Fit for 55"

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<sup>3</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2023\)148&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2023)148&lang=en)

package aims to reduce the EU's total greenhouse gas emissions by 55% by 2030 and achieve climate neutrality by 2050. Maritime transport activities are expected to adapt accordingly. Noise, air pollution and carbon emissions are compound factors that increase the risk of substandard shipping.

- 3.8 The pandemic undoubtedly restructured the priorities of Member States and stakeholders in general, thus reducing the number of inspections and leading to suboptimal inspection procedures and outcomes. The revised regulation will incorporate new risks that may emerge in the future and will enable the Member States and authorities to more effectively tackle anticipated or unanticipated disasters, risks etc. In this connection, it is also imperative that *force majeure* cases be tackled under the scope of a recommended roadmap to be designed and provided by European authorities, in collaboration with national stakeholders.
- 3.9 Fishing vessels have until now been excluded from the scope of PSC, but it has been reported that in the case of large ones (above 24 metres) they are experiencing serious problems regarding safety, deteriorating working conditions and overfishing. Therefore, it is necessary to improve fishing vessels' safety standards, via a concrete mechanism of targeted inspections, implementing a period of adaptation.

#### 4. **Specific comments – optional**

- 4.1 Training and upskilling programmes for employees, professionals and employers (e.g. Erasmus+) and exchanges of good practices between national agencies must be designed and implemented in line with European common integrated training projects, to enhance PSC officers' capacity to meet the growing inspection needs.
- 4.2 The protection of sea animal welfare must not be neglected in the new Directive, which must help consolidate fishing procedures and limits and make inspections of the impact of pollution on blue ecosystems more efficient.
- 4.3 Port state authorities must be trained properly, prepared and able to manage potential serious risks in the maritime sector (water pollution, security issues in navigation, tsunami effect, destruction of infrastructure due to climate phenomena, migration flows by sea etc.).
- 4.4 The EESC considers targeted programmes for the recruitment of young people and women desirable, to address the issues of brain drain and gender inequality in the maritime sector.

Brussels, 20 September 2023.

Oliver Röpke

The president of the European Economic and Social Committee