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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	11 January 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2022) 22 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 11.1.2022 correcting Directive 2009/45/EC of the European Parliament and the Council on safety rules and standards for passenger ships

Delegations will find attached document C(2022) 22 final.

Encl.: C(2022) 22 final



EUROPEAN
COMMISSION

Brussels, 11.1.2022

C(2022) 22 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 11.1.2022

**correcting Directive 2009/45/EC of the European Parliament and the Council on safety
rules and standards for passenger ships**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Directive 2009/45/EC of the European Parliament and of the Council¹ provides for safety standards for domestic passenger ships made of steel or equivalent material and high speed craft. Where applicable and feasible, it is based on internationally agreed standards, namely the International Convention of 1974 for the Safety of Life At Sea (SOLAS 1974)².

Annexes I, II and III to Directive 2009/45/EC include the technical safety requirements and the corresponding certificate forms. Annex I has been the last amended by Commission Delegated Regulation (EU) 2020/411, on 19 November 2019.

After the Commission Delegated Regulation (EU) 2020/411 was published, an error was spotted in its Annex 1 – which replaced Annex 1 of Directive 2009/45/EC – by an expert from the maritime safety domain. Section 2, Chapter II-1, Part B in this Annex contains the requirement for ships of B, C, and D category to comply with the Safe Return to Port requirements encoded in Regulation 8.1 of the respective Chapter II-1 of SOLAS 1974, while it was explicitly agreed during the negotiations over the draft Regulation that they should not. The purpose of the delegated regulation is to correct this error in Annex 1 of the Directive.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Identification and correction of the error in the Commission Delegated Regulation (EU) 2020/411 was consulted with experts from the Member States and relevant stakeholder in the framework of regular meetings of the Passenger Ship Safety Expert Subgroup of the Maritime Safety Group³ in 2020-2021.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Section 2, Chapter II-1, Part B in Annex 1 of Directive 2009/45/EC contains requirement for ships of B, C, and D category to comply with the Safe Return to Port requirements encoded in Regulation 8.1 of the respective Chapter II-1 of SOLAS 1974. This SOLAS regulation should be excluded from the scope of the respective provision.

¹ 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).

² This Convention was adopted by a conference convened upon the invitation of the International Maritime Organisation (IMO) and ratified by all EU Member States.

³ The Maritime Safety Group is an informal, permanent expert group on maritime safety set up by DG Mobility and Transport (Register of expert groups number E01079).

COMMISSION DELEGATED REGULATION (EU) .../...

of 11.1.2022

correcting Directive 2009/45/EC of the European Parliament and the Council on safety rules and standards for passenger ships

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/45/EC of the European Parliament and the Council of 6 May 2009 on safety rules and standards for passenger ships⁴, and in particular Article 10(2) and (3) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2020/411⁵ contained an error in the amended Section 2, Chapter II-1, Part B of Annex I to Directive 2009/45/EC.
- (2) Section 2, Chapter II-1, Part B of Annex I to Directive 2009/45/EC as amended by Delegated Regulation (EU) 2020/411 does not exclude Regulation 8.1 from the scope of application of the respective part of the International Convention for the Safety of Life At Sea, done at London on 1 November 1974 (the 1974 SOLAS Convention), as amended, to passenger ships of category B, C, and D.
- (3) During the negotiations over the draft of Delegated Regulation (EU) 2020/411, experts agreed that Safe Return to Port requirements encoded in Regulation 8.1 of Chapter II-1, Part B of the 1974 SOLAS Convention should not apply to passenger ships of category B, C, and D, as it would be disproportionate considering the circumstances under which those categories of ships operate.
- (4) Directive 2009/45/EC should therefore be corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Section 2, Chapter II-1 of Annex I to Directive 2009/45/EC, Part B is replaced by the following:

‘PART B

INTACT STABILITY, SUBDIVISION AND DAMAGE STABILITY

Ships shall apply the requirements in the appropriate provisions of SOLAS Chapter II-1, parts B to B-4, as amended, with the exception of Regulation 8-1.’

⁴ OJ L 163, 25.6.2009, p. 1.

⁵ Commission Delegated Regulation (EU) 2020/411 of 19 November 2019 amending Directive 2009/45/EC of the European Parliament and the Council on safety rules and standards for passenger ships, as regards the safety requirements for passenger ships engaged on domestic voyages (OJ L 83, 19.3.2020, p. 1).

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11.1.2022

For the Commission
The President
Ursula VON DER LEYEN