

Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims (Text with EEA relevance)

DIRECTIVE 2009/20/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

on the insurance of shipowners for maritime claims

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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 European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) One element of Community maritime transport policy is to improve the quality of merchant shipping by making all economic operators act more responsibly.
- (2) Dissuasive measures have already been adopted under Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship source pollution and on the introduction of penalties for infringements⁽⁴⁾.
- (3) On 9 October 2008, the Member States adopted a statement in which they unanimously recognised the importance of the application of the 1996 Protocol to the 1976 Convention on Limitation of Liability for Maritime Claims by all Member States.
- (4) The obligation to have insurance should make it possible to ensure better protection for victims. It should also help to eliminate substandard ships and make it possible to reestablish competition between operators. Furthermore, in Resolution A.898(21), the International Maritime Organisation invited States to urge shipowners to be properly insured.
- (5) Non compliance with the provisions of this Directive should be rectified. Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (recast)⁽⁵⁾ already provides for the detention of ships in the case of absence of certificates which have to be carried on board. However, it is appropriate to provide for the possibility of expelling a ship which does not carry a certificate of insurance. The modalities of the expulsion should allow the situation to be rectified within a reasonable time period.

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- (6) Since the objectives of this Directive, namely the introduction and implementation of appropriate measures in the field of maritime transport policy, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 318, 23.12.2006, p. 195.](#)
- (2) [OJ C 229, 22.9.2006, p. 38.](#)
- (3) Opinion of the European Parliament of 29 March 2007 ([OJ C 27 E, 31.1.2008, p. 166](#)), Council Common Position of 9 December 2008 ([OJ C 330 E, 30.12.2008, p. 7](#)) and Position of the European Parliament of 11 March 2009 (not yet published in the Official Journal).
- (4) [OJ L 255, 30.9.2005, p. 11.](#)
- (5) See page 57 of this Official Journal.