

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

*Article 9*

1 A Member State from a port in which a passenger ship departs may lower the twenty-mile threshold laid down in Article 5.

Any decision lowering that threshold for journeys between two ports in different Member States shall be taken jointly by those two Member States.

[<sup>F12</sup> 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.

[<sup>F2</sup>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.]]

3 In the circumstances set out in paragraph 2, the following procedure shall apply:

- [<sup>F1a</sup> 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 6 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).]

4 For regular services in an area where the annual probability of the significant wave height's exceeding two metres is less than 10 %, and

— if the voyage does not exceed about thirty miles from the point of departure or

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— where the primary purpose of the service is to provide regular links to outlying communities for customary purposes,

a Member State from a port in which passenger ships sail on domestic voyages or two Member States between ports in which passenger ships sail may request the Commission, if they consider it impracticable for companies to record the information specified in Article 5(1) to derogate, wholly or partly, from this requirement.

To this end, evidence of such impracticability shall be provided. In addition, it shall be demonstrated that in the area where such ships operate, shore-based navigational guidance and reliable weather forecasts are provided and that adequate and sufficient search and rescue facilities are available. Derogations granted under this paragraph may not have any adverse effect on competition.

[<sup>F1</sup>The request shall be submitted to the Commission by means of the database referred to in paragraph 3. If within 6 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).]

5 A Member State shall not, under the provisions of this Directive, exempt or grant derogations to any passenger ship sailing from its ports and flying the flag of a third country that is a contracting party to the SOLAS Convention which under the relevant SOLAS provisions does not agree to the application of such exemptions.

#### **Textual Amendments**

- F1** Substituted by Directive (EU) 2017/2109 of the European Parliament and of the Council of 15 November 2017 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.
- F2** Inserted by Directive (EU) 2017/2109 of the European Parliament and of the Council of 15 November 2017 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.