

Directive 2005/65/EC of the European Parliament and of the Council of
26 October 2005 on enhancing port security (Text with EEA relevance)

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PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

on enhancing port security

(Text with EEA relevance)

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) Security incidents resulting from terrorism are among the greatest threats to the ideals of democracy, freedom and peace, which are the very essence of the European Union.
- (2) People, infrastructure and equipment in ports should be protected against security incidents and their devastating effects. Such protection would benefit transport users, the economy and society as a whole.
- (3) On 31 March 2004 the European Parliament and the Council of the European Union adopted Regulation (EC) No 725/2004⁽⁴⁾ on enhancing ship and port facility security. The maritime security measures imposed by that Regulation constitute only part of the measures necessary to achieve an adequate level of security throughout maritime-linked transport chains. That Regulation is limited in scope to security measures on board vessels and the immediate ship/port interface.
- (4) In order to achieve the fullest protection possible for maritime and port industries, port security measures should be introduced, covering each port within the boundaries defined by the Member State concerned, and thereby ensuring that security measures taken pursuant to Regulation (EC) No 725/2004 benefit from enhanced security in the areas of port activity. These measures should apply to all those ports in which one or more port facilities covered by Regulation (EC) No 725/2004 are situated.
- (5) The security objective of this Directive should be achieved by adopting appropriate measures without prejudice to the rules of the Member States in the field of national

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security and measures which might be taken on the basis of Title VI of the Treaty on European Union.

- (6) Member States should rely upon detailed security assessments to identify the exact boundaries of the security-relevant port area, as well as the different measures required to ensure appropriate port security. Such measures should differ according to the security level in place and reflect differences in the risk profile of different sub-areas in the port.
- (7) Member States should approve port security plans which incorporate the findings of the port security assessment. The effectiveness of security measures also requires the clear division of tasks between all parties involved as well as regular exercises. This clear division of tasks and the recording of exercise procedures in the format of the port security plan is considered to contribute strongly to the effectiveness of both preventive and remedial port security measures.
- (8) Roll-on roll-off vessels are particularly vulnerable to security incidents, in particular if they carry passengers as well as cargo. Adequate measures should be taken on the basis of risk assessments which ensure that cars and goods vehicles destined for transport on roll-on roll-off vessels on domestic and international routes do not cause a risk to the vessel, its passengers and crew or to the cargo. The measures should be taken in a way which impedes as little as possible the fluidity of the operations.
- (9) Member States should be able to establish port security committees entrusted with providing practical advice in the ports covered by this Directive.
- (10) Member States should ensure that responsibilities in port security are clearly recognised by all parties involved. Member States should monitor compliance with security rules and clearly establish a responsible authority for all their ports, approve all security assessments and plans for their ports, set and communicate as appropriate security levels and ensure that measures are well communicated, implemented and coordinated.
- (11) Member States should approve assessments and plans and monitor their implementation in their ports. In order to keep disruption to ports and the administrative burden on inspection bodies to a minimum, the Commission's monitoring of the implementation of this Directive should be conducted jointly with the inspections provided for in Article 9(4) of Regulation (EC) No 725/2004.
- (12) Member States should ensure that a focal point for port security takes up the role of contact point between the Commission and Member States. They should inform the Commission which ports are covered by this Directive on the basis of the security assessments carried out.
- (13) The effective and standard implementation of measures under this security policy raises important questions in relation to its funding. The funding of extra security measures should not generate distortions of competition. By 30 June 2006, the Commission should submit to the European Parliament and the Council the findings of a study on the costs involved in measures taken under this Directive, addressing in particular the way financing is shared between the public authorities, port authorities and operators.

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- (14) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (15) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.
- (16) A procedure should be defined for the adaptation of this Directive to take account of developments in international instruments and, in the light of experience, to adapt or complement the detailed provisions of the Annexes to this Directive, without broadening the scope of this Directive.
- (17) Since the objectives of this Directive, namely the balanced introduction of appropriate measures in the field of maritime transport and port policy, cannot be sufficiently achieved by the Member States and can therefore, by reason of the European scale of this Directive, 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.
- (18) Since this Directive concerns seaports, the obligations herein contained should not be applicable to Austria, the Czech Republic, Hungary, Luxembourg or Slovakia,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 120, 20.5.2005, p. 28.](#)
- (2) [OJ C 43, 18.2.2005, p. 26.](#)
- (3) Opinion of the European Parliament of 10 May 2005 (not yet published in the Official Journal) and Council Decision of 6 October 2005.
- (4) [OJ L 129, 29.4.2004, p. 6.](#)
- (5) [OJ L 184, 17.7.1999, p. 23.](#)