

Directive 2009/16/EC of the European Parliament and of the Council of
23 April 2009 on port State control (Recast) (Text with EEA relevance)

Article 3

Scope

1 This Directive shall apply to any ship and its crew calling at a port or anchorage of a Member State to engage in a ship/port interface.

France may decide that the ports and anchorages covered by this paragraph do not include ports and anchorages situated in the overseas departments referred to in Article 299(2) of the Treaty.

If a Member State performs an inspection of a ship in waters within its jurisdiction, other than at a port, it shall be considered as an inspection for the purposes of this Directive.

Nothing in this Article shall affect the rights of intervention available to a Member State under the relevant Conventions.

Member States which do not have seaports and which can verify that of the total number of individual vessels calling annually over a period of the three previous years at their river ports, less than 5 % are ships covered by this Directive, may derogate from the provisions of this Directive.

Member States which do not have seaports shall communicate to the Commission at the latest on the date of transposition of the Directive the total number of vessels and the number of ships calling at their ports during the three-year period referred to above and shall inform the Commission of any subsequent change to the abovementioned figures.

[^{F1}This Directive shall also apply to inspections of ro-ro passenger ships and high-speed passenger craft carried out outside a port or away from an anchorage during a regular service in accordance with Article 14a.]

2 Where the gross tonnage of a ship is less than 500, Member States shall apply those requirements of a relevant Convention which are applicable and shall, to the extent that a Convention does not apply, take such action as may be necessary to ensure that the ships concerned are not clearly hazardous to safety, health or the environment. In applying this paragraph, Member States shall be guided by Annex 1 to the Paris MOU.

[^{F23} When inspecting a ship flying the flag of a State which is not a party to a Convention, Member States shall ensure that the treatment of that ship and its crew is not more favourable than that of a ship flying the flag of a State party to that Convention. Such ship shall be subject to a more detailed inspection in accordance with procedures established by the Paris MOU.]

4 Fishing vessels, warships, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade shall be excluded from the scope of this Directive.

[^{F35} Measures adopted to give effect to this Directive shall not lead to a reduction in the general level of protection of seafarers under Union social law in the areas to which this Directive applies, as compared to the situation which already prevails in each Member State. In implementing those measures, if the competent authority of the port State becomes aware of a clear violation of Union law on board ships flying the flag of a Member State, it shall,

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

in accordance with national law and practice, forthwith inform any other relevant competent authority in order for further action to be taken as appropriate.]

Textual Amendments

- F1** Inserted by [Directive \(EU\) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC \(Text with EEA relevance\).](#)
- F2** Substituted by [Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control \(Text with EEA relevance\).](#)
- F3** Inserted by [Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control \(Text with EEA relevance\).](#)