



EUROPEAN PARLIAMENT

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Parliamentary questions

2 September 2008

P-4724/08

WRITTEN QUESTION by Corlen Wortmann-Kool (PPE-DE) to the Commission

► Subject: Dutch ship detained in Denmark

Answer(s)

On 14 August the Danish authorities detained the Dutch sailing ship *Catherina*, which is more than 80 years old. The vessel allegedly fails to comply with Danish safety standards. After four days, the vessel was finally allowed to return to the Netherlands on condition that it did not enter Danish waters again. The *Catherina* has the Dutch SPS certificate, received by the Transport and Public Works Inspectorate.

Denmark and Germany have indicated that they will no longer accept the SPS Code for ships such as the *Catherina*, and are demanding a SOLAS Passenger Ship Certificate. It does not seem feasible for historic sailing ships to comply with this requirement; indeed, German and Danish sailing ships cannot do so either. In 2000, therefore, 10 countries decided to allow national safety certificates for historic ships.

In June 2007 I drew the Commission's attention to the fact that the problem had arisen among the three Member States. The Commission said that the Member States would first discuss the matter among themselves. However, in the autumn of 2007 the talks failed to resolve it. An interim solution (the SPS Code) adopted by the Netherlands was rejected by the German and Danish authorities. Since then, as described above, the Danish authorities have detained a ship.

1. Is the Commission aware of the action taken by the Danish authorities in detaining a historic Dutch sailing ship?
2. Is the Commission aware that efforts by the Dutch authorities to find a solution in consultation with Germany and Denmark have failed, thus *de facto* making it impossible to sail between these Member States?
3. Will the Commission draft specific European provisions governing the safety of historic sea-going sailing ships (by analogy with Chapters 15 and 19 of the directive on inland waterway vessels, 2006/87/EC⁽¹⁾, for which detailed implementing provisions are currently being drafted), in order to ensure the required level of safety and allow these vessels to undertake international voyages?

(1) OJ L 389, 30.12.2006, p. 1.

Original language of question: NL

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Parliamentary questions

1 October 2008

P-4724/2008

Answer given by Mr Tajani on behalf of the Commission

1 and 2. The Commission is not aware of the particular circumstances concerning the detention by the Danish authorities of the Dutch sailing ship *Catherina*, nor of the outcome of talks between the Member States concerned.

3. As noted in the Commission's answer to the Honourable Member's Written Question **E-3461/07**⁽¹⁾, neither international safety requirements, nor Community maritime safety legislation apply to such ships.

Regulation (EC) 4055/1986⁽²⁾ applies the principle of freedom to provide services to maritime transport between Member States, and includes in its definition of 'services to maritime transport' in Article 1(4)(a) 'the carriage of passengers or goods by sea between any port of a Member State and any port or off-shore installation of another Member State'.

The Court of Justice has ruled in relation to the freedom to provide services that

'where national legislation, though applicable without discrimination to all vessels whether used by national providers of services or by those of other Member States, operates a distinction according to whether those vessels are engaged in internal transport or in intra-Community transport [thereby giving an undue advantage to nationals], that legislation must be deemed to constitute a restriction on the freedom to provide maritime transport services'⁽³⁾.

Based on the case law of the Court of justice, the Commission considers that any restriction to the free movement of services in the maritime transport sector must be proportionate, justified by a general public interest such as objective safety requirements, as has also been acknowledged by the Court⁽⁴⁾.

The Commission is of the view that the current framework is sufficiently clear and, given its current resources, considers that there is no need for legislation at this stage. Concerning the specific case of the '*Catherina*', it follows from the above considerations that the mere detention of the ship is not necessarily contrary to the principles of the EC Treaty, unless such a detention had been based on national requirements which are discriminatory and providing an undue advantage to nationals, or are not reasonably linked to specific safety objectives. The Commission is ready to examine any complaints in this respect.

(1) <http://www.europarl.europa.eu/QP-WEB>

(2) Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, OJ L 378, 31.12.1986.

(3) Case C-381/93 *Commission v France* [1994] ECR I-5145 §21.

(4) Cases C-355/98 *Commission v Belgium* [2000] ECR I-1221 §37; C-252/83 *Commission v Denmark* [1986] ECR 3713 §17.

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Parliamentary questions

6 July 2007

E-3461/07

WRITTEN QUESTION by Corien Wortmann-Kool (PPE-DE) to the Commission
► Subject: Problems relating to certification of maritime sailing ships

Answer(s)

Passenger ships carrying more than 12 passengers have to comply with minimum safety requirements pursuant to the International Convention for the Safety Of Life At Sea (SOLAS) or EU Directive 98/18/EC. These requirements are difficult to apply to maritime sailing ships. In the case of inland waterway transport, Directive 2006/87/EC⁽¹⁾ lays down specific rules for historic vessels.

In the case of historic maritime sailing ships, a memorandum of understanding concluded between nine Member States provides for mutual recognition of national certificates for vessels of this type with an equivalent level of safety. Such traditional vessels are not covered by international classification societies. In the Netherlands there is a special, nationally recognised classification society for Netherlands maritime sailing ships, Register Holland. Such bodies cannot be accorded international status because of the quantitative requirements applying to recognised international classification societies. Given that a number of Member States, including Denmark and Germany, have announced that they will no longer recognise national certificates from 2008, there is a threat to the continued use of historic maritime sailing ships in international transport, which will have serious repercussions for famous sailing events.

1. Is the Commission aware of the problem of international recognition of traditional maritime sailing ships?
2. What is the Commission's view of the reasons given by Denmark, Germany and others for no longer recognising national certificates for traditional maritime sailing ships from 2008?
3. Does the Commission acknowledge that, if national certificates are no longer accepted and international certification remains impossible, the future of maritime sailing ships and of sailing events will de facto be in jeopardy?
4. What steps is the Commission prepared to take to tackle this problem? What scope is there for introducing specific rules for this type of historic vessel, such as already exist in the inland shipping sector?
5. What scope is there, in the Commission's view, for taking steps to enable the quantitative requirements applying to recognised classification societies to be lowered, so that in future certificates issued by a special classification society for traditional maritime sailing ships may be internationally recognised?

⁽¹⁾ OJ L 389, 30.12.2006, p. 1.

Original language of question: NL

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Parliamentary questions

26 September 2007

E-3461/2007

Answer given by Mr Barrot on behalf of the Commission

International safety requirements, and in particular, the International Convention for the Safety of Life at Sea (SOLAS), do not apply to historical ships, and as such no international safety certificates are issued for them. Therefore Community maritime safety legislation does not generally apply to these vessels, including Directive 94/57/EC⁽¹⁾, commonly known as the Classification Societies Directive as well as Directive 98/18/EC⁽²⁾ on safety rules and standards for passenger ships that excludes historical sailing ships from its scope. Any safety requirements for such ships therefore fall within the competence of Member States. In other words, any voyage by such ships between Member States is on the basis of 'bilateral agreement'.

The Commission understands that Denmark and Germany have already informed the Netherlands that such historical vessels, used for commercial purposes, would not be allowed to dock in their ports because this would mean a reduction of safety requirements in force for commercial ships on international voyages. The Commission understands also that the three Member States concerned will meet in the near future to discuss the matter.

Finally, it should be noted that Directive 2006/87/EC⁽³⁾ on inland waterways transport does not yet have specific provisions for historical vessels.

- (1) Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations, OJ L 319, 12.12.1994.
- (2) Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships, OJ L 144, 15.5.1998.
- (3) 2006/87/EC Directive of the Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC, OJ L 389, 30.12.2006.

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