



EMSA workshop with IPA Countries on MLC,2006

## Training on MLC 2006

# Status of EU legislation on MLC new template

**GEORGE KIRMIZIDIS – 22 November 2016 - Lisbon**

## Introduction: What is MLC-2006?

- Comprehensive international labour Convention.
- Sets out seafarers' rights to decent conditions of work
- Helps fair competition for ship-owners.
- 16 Articles (general provisions) + 5 Titles (specific provisions).

## MLC-2006: Title provisions

- Title 1: Minimum requirements for seafarers to work on a ship
- Title 2: Conditions of employment
- Title 3: Accommodation, recreational facilities, food and catering
- Title 4: Health protection, medical care, welfare and social security protection
- Title 5: Compliance and enforcement

# What to be checked by the flag State?

14 areas of Working and living conditions of seafarers as described in MLC-2006:

1. **Minimum age**
2. **Medical certification**
3. **Qualifications of seafarers**
4. **Seafarers' employment agreements**
5. **Use of any licensed or certified or regulated private recruitment and placement service**
6. **Hours of work or rest**
7. **Manning levels for the ship**
8. **Accommodation**
9. **On-board recreational facilities**
10. **Food and catering**
11. **Health and safety and accident prevention**
12. **On-board medical care**
13. **On-board complaint procedures**
14. **Payment of wages**



## MLC-2006: Title structure (I)

Each Title consists of:

- **Regulations:** Mandatory (principles and rights worded in very general terms)
- **Standards:** Mandatory (part A of the Code - details the manner each Regulation shall be implemented)
- **Guidelines:** Not mandatory (part B of the Code – to be given due consideration while implementing Regulations and Standards).

## MLC-2006: Title structure (II)

- Countries that ratify the MLC-2006, must adopt national laws or take other measures to ensure that the principles and rights set out in the **Regulations** are implemented in the manner set out by the **Standards**.
- When deciding on the details of their laws or other implementing measures, the ratifying countries must give due consideration to following the **Guidelines**.



## EU legislation relevant to MLC-2006

- Council Directive **2009/13/EC** of 16 February 2009, implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC.
- Directive **2013/54/EU** of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 as implemented in EU legislation by Directive 2009/13/EC.
- 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 to make explicit reference to the MLC 2006 and its provisions.





# Directive 2009/13/EC of 16 February 2009

Implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC

- Vessels below 200 GT are covered
- Medical certificates free of charge
- Minimum paid leave
- Working time!!!



## Directive 2009/13/EC **Social Agreement**

"subsequent to any amendments to any of the provisions of the MLC, 2006, and if requested by either one of the Parties to this Agreement, a review of the application of this Agreement will be carried out"

Annex: Final Provision



@Transport\_EU

Mobility and  
Transport

**CONNECTING**  
**EUROPE**



## Directive 2013/54/EU

of 20 November 2013 of the European Parliament and of the Council concerning certain **flag State** responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006





## Objective of 2013/54/EU

- Introduction of certain compliance and enforcement provisions, envisaged in Title 5 of MLC 2006, which relate to those parts of MLC 2006 in respect of which the required compliance and enforcement provisions have not yet been adopted.
- Those parts correspond to the elements set out in the Annex to Council Directive 2009/13/EC

## Article 2 - Definitions

- relevant parts of MLC 2006' means the parts of MLC 2006 of which the content shall be considered as corresponding to the provisions in the Annex to Directive 2009/13/EC.



## Article 3 - Monitoring of compliance

- MS ensure effective /appropriate enforcement and monitoring mechanisms, including inspections to ensure that MLC conditions are met – exception <200 GT
- MS to establish clear objectives and standards of their inspection systems, and assess to which extent those objectives and standards are being attained.
- MS to ensure that seafarers have access to a copy of the Agreement.

## Article 4 - Personnel in charge of compliance monitoring

- MS to ensure that personnel have : training, competence, terms of reference, full legal authority, status and independence to carry out verification.
- Inspectors can prohibit a ship from leaving port until necessary actions are taken.
- RO's to be monitored by the MS.
- International Labour Office to receive list of ROs

# Article 5 - On-board complaint procedures, handling of complaints and corrective measures

- On-board complaint procedures to be in place
- Complaints to be investigated by the MS
- Confidentiality of the complainant

## What was next?

- Transposition: Conformity checking (prima facie examination)
- Facilitation of Commission's checks
- Proper implementation at national level



## Directive 2013/38/EU

- Directive 2013/38/EU amend Directive 2009/16/EC on **port State control** in order to make explicit reference to the MLC 2006 and its provisions
- Therefore, documentary evidence of the financial security system (point 6) will therefore be automatically included within the scope of Directive 2009/16/EC as amended



## Purpose of Directive 2013/38/EU

- No more favourable treatment: MS to perform inspection of on-board living and working conditions of seafarers and their training and qualifications to verify they comply with requirements of the MLC 2006.

• Art. 3, para. 3

- Seamless PSC inspections on matters covered by the MLC



## Dir 2013/38/EU: Non-regression clause (I)

- Recital (8) of Directive 2013/38/EU refers specifically to Directive 2009/13/EC on the implementation of the MLC (transposition deadline 20 August 2014) and Directive 1999/63/EC on working time for seafarers.



## Dir 2013/38/EU: Non-regression clause (II)

- Recital (9) As a matter of general principle, the measures adopted to give effect to this Directive should under no circumstances constitute grounds justifying a reduction by Member States in the general level of protection of seafarers on board ships flying the flag of a Member State under the applicable Union social law.





## Dir 2013/38/EU: Non-regression clause (III)

- '5. Measures adopted (.) 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 (.) 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 (.) inform any other relevant competent authority in order for further action to be taken as appropriate.'

- Art. 3, para. 5

## MLC 2006 related PSC Inspections

- Scope of an expanded inspection including the risk areas to be covered is set out in Annex VII
  - Art. 14, para. 4
- Commission may adopt detailed measures to ensure uniform application of the procedures (implementing acts)
  - Art. 15, para. 4
- If deficiencies are found, Master of the ship should rectify them
  - Art. 17

## Complaints procedure

- Directive 2013/38/EU ensures the confidentiality of seafarers who make complaints relating to the matters dealt with in MLC 2006 which are reported to inspectors.
- "The inspector shall take appropriate steps to safeguard the confidentiality of complaints made by seafarers, including ensuring confidentiality during any interviews of seafarers."
  - Article 18, new paragraph four

## Article 18a: Onshore MLC 2006 complaint-handling procedures (I)

- A complaint can be reported to an inspector who shall undertake an initial investigation.
- Check whether the on-board complaint procedures have been pursued. (+ more detailed inspection can be conducted under Art. 13.).
- Resolution of the complaint at the ship-board level if possible.
- In case of non-conformity Art. 19 shall apply.
- Flag State to be notified for advice and request of a corrective plan of action

## Article 18a: Onshore MLC 2006 complaint-handling procedures (II)

- If problem is not resolved, Port State shall transmit a copy of the inspector's report to the ILO Director-General.
- Setting-up of a harmonised electronic format and procedure for the reporting of follow-up actions taken by Member States.
- The fourth paragraph of Article 18 shall also apply to complaints relating to matters covered by MLC 2006

## Changes to annexes

- Annex I, Part II, point 2B – Unexpected factor
- Annex IV – list of certificates and documents
- Annex V, Part A – clear grounds for a more detailed inspections
- Annex X – criteria for detention of a ship



## EU law applicable to seafarers

- **Maritime Labour Convention:** Directives 2009/13/EC and 2013/54/EU
- **Health and safety:** Directive 89/391/EEC, 92/29/EEC
- **Working time:** Directive 1999/95/EC and 1999/63/EC
- **Training and certificates:** Directive 2005/45/EC, Directive 2008/106/EC as amended by Directive 2012/35/EU
- **Social Security:** Regulation (EC) No 883/2004



## EU social law applicable to seafarers\*

- **Protection of employees in the event of the insolvency of their employer:** Dir. 2008/94/EC
- **Information and consultation of employees:** Dir. 2009/38/EC and Dir. 2002/14/EC
- **Approximation of MS laws on collective redundancies:** Dir. 98/59/EC
- **Approximation of MS laws on safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses:** Dir. 2001/23/EC
- \*Directive 1794/2015/EU includes seafarers in several EU labour law Directives

## Directive 2013/38/EU:

- *Recital 10: "... In order to protect safety and to avoid distortions of competition, Member States should be allowed to verify compliance with the provisions of MLC 2006 by any ship calling at their ports and anchorages, irrespective of the State whose flag it flies."*
- *Recital 12: "Member States, when performing port State control inspections in accordance with Directive 2009/16/EC, should take into account the provisions of MLC 2006 which stipulate that the maritime labour certificate and the declaration of maritime labour compliance are to be accepted as prima facie evidence of compliance with the requirements of MLC 2006."*



# Overview of MLC-related PSC inspections

This overview covers the period from 20 August 2013 to 20 August 2016:

A period of three years following the entry into force of the Maritime labour Convention (2006).



@Transport\_EU

Mobility and  
Transport

**CONNECTING**  
**EUROPE**

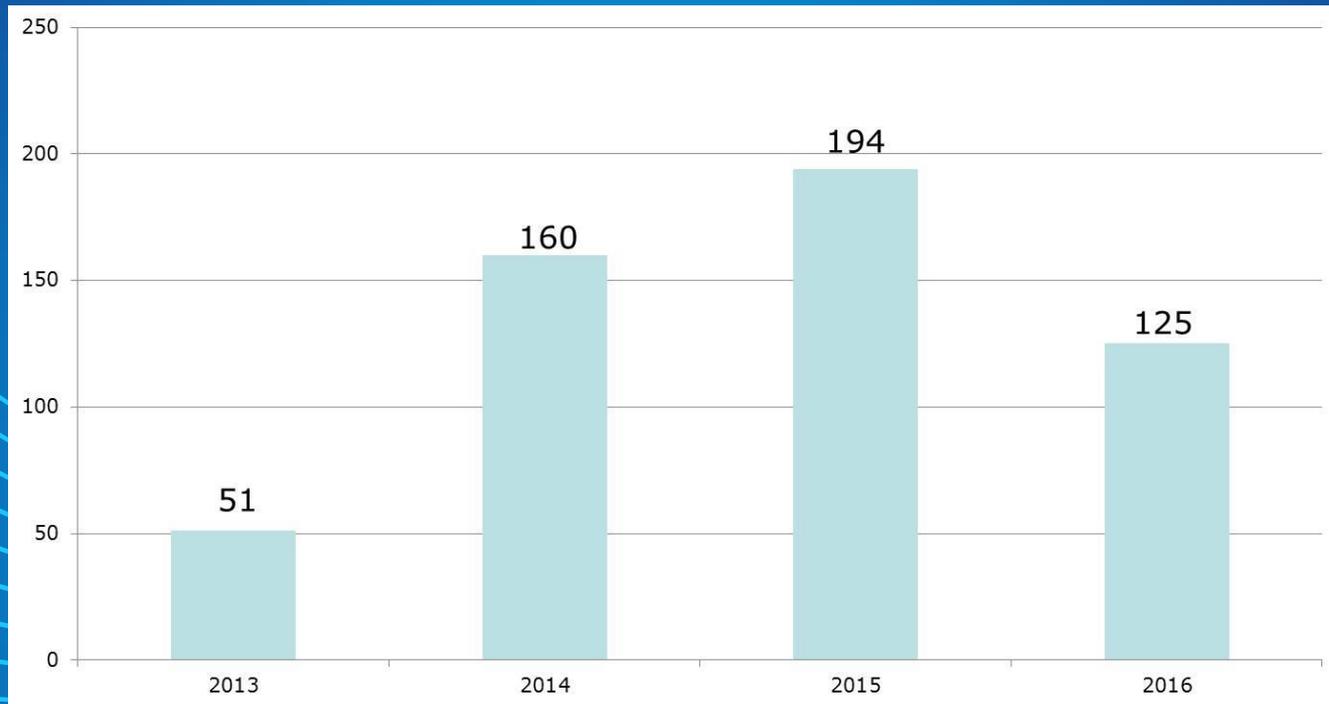
## Some numbers...

Ships inspected and identified with MLC related deficiencies: **7,600**

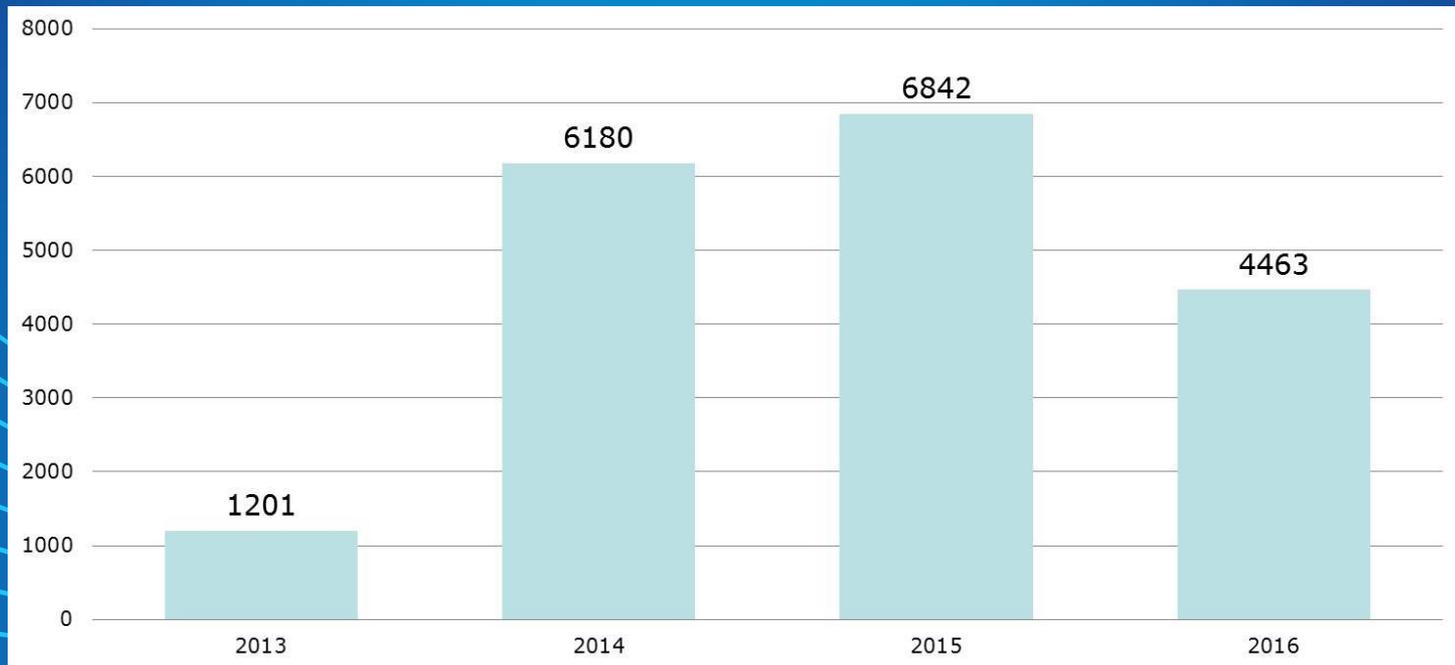
- Total number of ship detentions reported: **505 (6.6%)**
- Total number of deficiencies reported: **18,686**



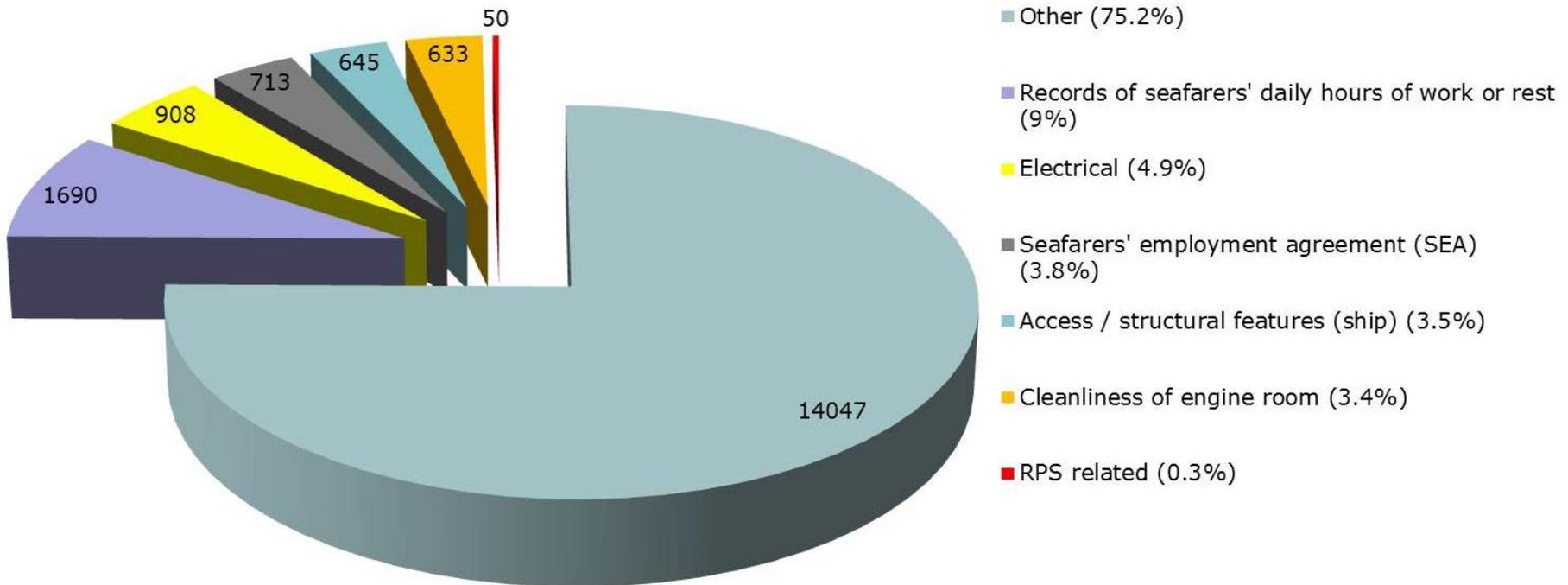
## MLC-related detentions reported annually



## MLC-related deficiencies reported annually



## Top 5 most common deficiencies (+RPS) since MLC came in force



## Conclusions regarding MLC-related deficiencies

- The most common reason to report an MLC-related deficiency is the "records of seafarers' daily hours of work or rest"
- Less than 3% of MLC-related deficiencies lead to an MLC-related ship detention



# Concentrated Inspection Campaign (CIC) on MLC-2006

- Launched by: Paris MoU.
- Duration: 3 months (Sept.-Nov.2016).
- Aim: Verify on-board implementation of the minimum standards for working and living conditions.
- Focus: Ship's procedures and measures compliance with MLC-2006 requirements.



## Concentrated Inspection Campaign (CIC)

- Targeted: presence of required certificates/documentation; accommodation; food and catering; establishment of safety committee.
- Deficiencies: recorded and treated accordingly.
- 4500 inspections to be carried out in total.
- Results: to be analysed and presented at PSC Committee.





# Thank you for your attention

What's new in EU Maritime policy? Find out on:  
[http://ec.europa.eu/transport/modes/maritime/index\\_en.htm](http://ec.europa.eu/transport/modes/maritime/index_en.htm)



@Transport\_EU

Mobility and  
Transport

**CONNECTING**  
**EUROPE**