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# Monitoring of the Recognised Organisations by the Flag State

*(The point of view of the class)*

5 September 2012



**- Agenda -**

- *Why monitoring the ROs?*
- *Who is monitoring the ROs?*
- *Monitoring of the ROs by the Flag State*
- *Is the “ISO 9001” requirements monitoring really productive?*
- *Where the Flag State monitoring is more effective and productive*
- *‘Working relationship’ between the Flag State and its ROs*
- *When the Flag State monitoring is less effective and productive*
- *When the ‘working relationship’ is less effective and productive*
- *Flag State instructions to ROs*
- *Is any harmonisation of Flag States’ requirements possible?*

## Why monitoring the Recognised Organisations?

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As the saying goes,

***“Only the one who does not anything makes no mistakes”***

Thus, monitoring is necessary both internally, by the Recognised Organisation itself, and externally, by other bodies such as the Flag States authorizing the RO to act on their behalf

What does the word “*monitoring*” mean?

The term “***monitoring***” is derived from the Latin words “monere/monitor”, meaning to ***admonish, warn*** but also ***inform*** and ***advise***

Monitoring is useful and appreciated even more when:

- ✓ it is not aimed just at detecting failures or errors, e.g. in the procedures or their application, with an “investigative” approach and/or a purely “punitive” attitude;
- ✓ through a constructive approach, it promotes the continuous improvement of the activities and services being provided, bringing added value beyond mere compliance with a mandatory requirement.

## Who is monitoring the Recognised Organizations?

### EU FLAG STATES MONITORING (EU FLAG AUTHORIZATION)

ART. 9 DIRECTIVE 2009/15/EC

BRANCH OFFICE  
PLAN APPROVAL CENTRE

EMSA ASSESSMENT  
N)

WHICH ARE  
THE EXTERNAL BODIES  
MONITORING  
THE RECOGNISED ORGANISATION ?

AR

IACS QSCS

NON-EU  
FLAG STATES

APPROVED PLANS/DRAWINGS  
STATEMENT OF PURPOSES  
STATUTORY CERTIFICATES

SHIPS

INSPECTIONS

PORT STATE  
CONTROL

### **DIRECTIVE 2009/15/EC**

#### *Article 3*

2. Where .... a Member State decides with respect to ships flying its flag:

(i) to ~~authorise organisations to undertake fully or in part inspections and surveys related to statutory certificates;~~

(ii) to ~~rely upon organisations to undertake fully or in part the inspections and surveys referred to in point (i);~~

~~it shall entrust these duties only to recognised organisations.~~

### **WHAT ADDED VALUE**

#### *Article 9*

~~Each Member State shall satisfy itself that the recognised organisations acting on its behalf for the purpose of Article 3(2) effectively carry out the actions referred to in that Article to the satisfaction of its competent administration.~~

~~In order to carry out the task referred to in paragraph 1, each Member State shall, at least on a biennial basis, monitor every recognised organisation acting on its behalf and shall provide the other Member States and the commission with a report on the results of such monitoring activities ....~~

## Is the “ISO 9001” requirements monitoring really productive?

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Any monitoring body/authority deeply scrutinizes the «*ISO 9001 part*» of the internal quality management system implemented by the Recognised Organisation such as, for example, the requirements related to:

- training and qualification process;
- management process of the technical rules issued by the RO;
- control of documents and records;
- control of complaints;
- process of internal auditing;

Although these aspects have been «digested» by ROs in a very long period, experience of audits showed that auditors sometimes focus too much on these issues, distracting their attention from other ones more significant for the Flag State.

The deep and unique **knowledge** by the Flag State of:

- the **national legislation and requirements**; and,
- the relevant specific **instructions for their application**;

is very effective and productive in the verification of their complete and correct:

- ✓ transposition in the RO's "Country File" (Instructions to Surveyors) relevant to that Flag State;
- ✓ application to practical cases, i.e. specific vessels, especially if managed by RO's Offices not located in the Flag State

The availability to the Flag State of **extensive information on the performance of the national fleet**, including but not limited to:

- worldwide Port State Control records (serious detentions, multiple detentions, etc.);
- major conversions;
- serious incidents;

makes very effective:

- the **examination and analysis of specific significant cases** (i.e. ships detained, recently registered under the national flag, converted, etc.) in lieu of a random verification of generic samples;
- the **Flag State inspection on board specific ships** considered as deserving special care and attention (e.g. ships showing poor PSC records, poor performance of the managing company, etc.)



*Directive 2009/15/EC Article 5*

*Member States which take a decision as described in Article 3(2) shall set out a '**working relationship**' between their competent administration and the organisations acting on their behalf*

The relationships between Flag State and the Recognized Organization through the RO's **local Regional Office** rather than the RO's Headquarters are very productive

**Technical meetings** periodically held by the Flag State with its Recognized Organizations are significant opportunities for analyzing issues, comparing opinions and identify the most suitable solutions

## When the Flag State monitoring is less effective and productive

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Sometimes the Flag State personnel involved in monitoring activities:

- shows a lack of practical experience and operative background and focuses the monitoring on purely formal aspects or procedural issues, losing a broader and global vision of the issues discussed
- adopts an approach very formal, behaving more as an «investigator» rather than a partner, and thus little constructive

Monitoring by the Flag State should not be limited to detecting failures or errors but be an useful opportunity to exchange views and compare opinions, to clarify the meaning and the applicability of both the national legislation and the specific requirements (e.g. instructions/circulars issued or procedures established by the Flag State), to understand better how both the Flag State and the Recognised Organisation are organised and work, etc.

## When the 'working relationship' is less effective and productive

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Sometimes...

no technical meetings are held periodically by the Flag State with its Recognised Organisations

'working relationship' is kept only in 'remote' mode and through the mandatory biennial monitoring

It would be more effective, productive and profitable to establish a continuous dialogue during the year through regular meetings, on the basis of a sort of «partnership», rather than only through prescriptive periodic monitoring once every two years

Flag State instructions for the application of international conventions or national legislation/requirements are not always:

- sufficiently clear and exhaustive: for instance, in a specific case concerning the on-board installation of the fall preventer devices the received instructions were:
  - specifying the due date (1/1/2013) for their mandatory installation;
  - not establishing the survey criteria in order to verify their actual installation such as:
    - the first SAFEQU/SAFPAS survey occurring on or after 1/1/2013; or,
    - a mandatory occasional survey to be carried out within 1/1/2013
- available in a Flag State website
- timely issued (for instance, in the case of Directive 2010/36/CE)

## Flag State instructions to ROs

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Flag State instructions are often drafted only in the national language of the Flag State, thus creating the possible risk that the English translations provided by the various Recognised Organizations, acting on behalf of the same Flag State, to their own operational networks are not consistent and uniform

Even at level of the European Union, the translations into the different national languages published in the EU Official Journal may remarkably differ in some significant words, for instance in the Directive 2010/36/EU of 1 June 2010 (amending Directive 2009/45/EC on safety rules and standards for passenger ships) article 8-2 (“Special requirements for ro-ro passenger ships carrying 400 persons or more”):

- the English text uses the word “persons” (“...*ro-ro passenger ships certified to carry 400 persons or more shall comply with...*”);
- in lieu of “persons” the Italian text uses the word “passengeri” (“passengers”);

Considering the "passengers" in lieu of the "persons" (passengers + crew) on board could make a huge difference in the application of the requirements.

A possible solution notwithstanding possible legal restraints? the ROs acting on behalf of the same Flag State could, in turn, provide the English translation to the Flag State for review, acceptance and circulation to the other ROs

## Is any harmonisation of Flag State requirements possible?

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Nowadays, the various Flag States have very different requirements, making their application less easy and less effective

EC Regulation no. 391/2009 Article 10 is requesting Recognised Organisations to:

- *...consult with each other periodically with a view to maintaining equivalence and **aiming for harmonization of their rules and procedures and implementation thereof** ...;*
- *...cooperate with each other with a view to **achieving consistent interpretation of the international conventions** ...;*

Something similar would be desirable even for flag States, in order to harmonise requirements and procedures such as, for instance, those concerning:

- the information (i.e. the “affidavit”) to be reported in advance to the Flag State at the time of first ship’s registration under its flag;
- the management of the statutory deficiencies;

or those related to the horizontal issues originating by the EMSA assessment of EU Recognised Organisations

*Thank you*