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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred on the Commission  
pursuant to Directive 2009/42/EC on statistical returns in respect of carriage of goods  
and passengers by sea**

## 1. INTRODUCTION

Regulation (EU) No 1090/2010 of the European Parliament and of the Council<sup>1</sup> aligned the powers conferred on the Commission by Directive 2009/42/EC<sup>2</sup> (the Directive) with the Treaty on the Functioning of the European Union (TFEU).

Directive 2009/42/EC as amended empowers the Commission to adopt delegated acts for the following purposes:

- adapting the data collection requirements in its Annexes I to VIII to reflect economic and technical developments, provided that this does not substantially increase costs for Member States and/or the burden on respondents (see Article 3(4));
- drawing up a list of ports, coded and classified by country and maritime coastal area (see Article 4(1)); and
- amending non-essential elements of the Directive so as to ensure that data collection methods are such that the statistical datasets on sea transport (Annex VIII) meet the standards of accuracy set by the Commission (Article 5).

As laid down in recital 8 of Regulation (EU) No 1090/2010, ‘it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level’.

## 2. LEGAL BASIS

This report is required under Article 10a(1) of the Directive, which conferred on the Commission the power to adopt delegated acts for a period of five years from 29 December 2010 onward. The Commission submitted a first report in 2015<sup>3</sup> and a second report in 2020<sup>4</sup>. The delegation of power was automatically extended for another five years (from December 2020 to December 2025) because the Parliament and the Council did not revoke it pursuant to Article 10b of the Directive. Article 10a requires the Commission to issue a report in respect of the delegation at the latest six months before the end of each five-year period. This present report fulfils the Commission’s obligation to draw up a third report on the exercise of its power to adopt delegated acts.

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<sup>1</sup> Regulation (EU) No 1090/2010 of the European Parliament and of the Council of 24 November 2010 amending Directive 2009/42/EC on statistical returns in respect of carriage of goods and passengers by sea, OJ L 325, 9.12.2010, p. 1, ELI: <http://data.europa.eu/eli/reg/2010/1090/oj>.

<sup>2</sup> Directive 2009/42/EC of the European Parliament and of the Council of 6 May 2009 on statistical returns in respect of carriage of goods and passengers by sea, OJ L 141, 6.6.2009, p. 29, ELI: <http://data.europa.eu/eli/dir/2009/42/2012-01-01>.

<sup>3</sup> Report from the Commission to the European Parliament and the Council on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EU) No 1090/2010 of the European Parliament and of the Council amending Directive 2009/42/EC on statistical returns in respect of goods and passengers by sea, COM(2015) 362 final of 28 July 2015.

<sup>4</sup> Report from the Commission to the European Parliament and the Council on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Directive 2009/42/EC on statistical returns in respect of goods and passengers by sea, COM(2020) 149 final of 17 April 2020.

### **3. EXERCISE OF THE DELEGATION**

The Commission has used the delegation of powers twice, adopting Commission Delegated Decision 2012/186/EU<sup>5</sup> and Commission Delegated Decision (EU) 2018/1007<sup>6</sup>. During the latest five-year period, the Commission did not exercise its power to adopt delegated acts as conferred on it by Article 10a of the Directive.

### **4. CONCLUSION**

Since April 2018, the Commission has not exercised the power to adopt delegated acts conferred on it by Directive 2009/42/EC. However, the Commission considers that it should continue to have these delegated powers because it may need to adopt delegated acts in the future to reflect economic and technical developments and changes in the EU's port infrastructure.

The Commission invites the European Parliament and the Council to take note of this report.

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<sup>5</sup> Commission Delegated Decision 2012/186/EU of 3 February 2012 amending Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea, OJ L 101, 11.4.2012, p. 5.

<sup>6</sup> Commission Delegated Decision (EU) 2018/1007 of 25 April 2018 supplementing Directive 2009/42/EC of the European Parliament and of the Council as regards the list of ports and repealing Commission Decision 2008/861/EC, OJ L 180, 17.7.2018, p. 29.