

50/2011 Coll.

REGULATION OF THE GOVERNMENT

of the Slovak Republic

of 9 February 2011

on the investigation of marine casualties and incidents

The Government of the Slovak Republic according to [Section 2 para. 1 letter j\) of Act No. 19/2002 Coll.](#) laying down the conditions for the issuance of the approximate decrees of the Government of the Slovak Republic, as amended, provides:

Section 1

(1) This Government Regulation lays down the principles, rules and procedures for investigating a marine casualty¹⁾ or incident²⁾ in order to increase maritime safety, prevent marine pollution from seagoing ships and reduce the risk of a future marine casualty or incident.

(2) Investigation for the purposes of this Government Regulation means an analysis of a marine casualty or incident, the detailed reporting of the investigation of their causes and the design of remedial measures.

(3) For the purposes of this Government Regulation, the investigator and the professional investigation commission shall be the one who carries out an investigation under this Government decree.

Section 2

This Government Regulation applies to a marine casualty or incident involving (a) seagoing ships flying the flag of the Slovak Republic

(a) seagoing ships flying the flag of the Slovak Republic or

b) the Slovak Republic as a state with a substantial interest.³⁾

(2) This Government Regulation does not apply to a marine casualty or an incident involving only

(a) warships, amphibious warfare ships and boats owned or operated by the Slovak Republic and ships not used for commercial purposes;

b) ships not propelled by mechanical means, wooden ships of a primitive build, seagoing yachts⁴⁾ and seagoing pleasure crafts⁵⁾ if they do not have or will not have a crew and are not used for commercial purposes,

c) inland waterway vessels operating in inland waterways,

d) fishing vessels of less than 15 meters in length,

e) permanent drilling rigs.

Section 3

(1) An investigator or expert investigation commission shall carry out an investigation of a very serious marine casualty, ⁶⁾ as regards

a) a seagoing ship flying the flag of the Slovak Republic, irrespective of the place of a very serious marine casualty; or

b) the substantial interest of the Slovak Republic, irrespective of the location of the very serious marine casualty and the flag of a seagoing ship involved in a very serious marine casualty.

(2) In the case of a serious marine casualty,⁷⁾ the investigator or expert investigation commission shall carry out a preliminary assessment prior to the investigation in order to decide whether or not to conduct an investigation. If the investigator or expert investigation commission decides that an investigation shall not be carried out, the reasons for the decision shall be recorded and communicated to the European Commission together with other data on the marine casualty and incident according to Annex No. 1.

(3) In the case of a marine casualty besides a marine casualty under paragraphs 1 and 2 or a marine incident, the investigator or expert investigation commission shall decide whether the investigation is to be carried out or not.

(4) In the decisions referred to in paragraphs 2 and 3, the investigator or expert investigation commission shall take into account the seriousness of a serious marine casualty, a marine casualty or a marine incident, the type of vessel or cargo and the possibility that the

conclusions of the investigation shall contribute to the prevention of marine casualties and incidents.

(5) If the Slovak Republic is the lead investigating State, an investigator or expert investigation commission will determine the scope and practical arrangements for the conduct of investigations in cooperation with the investigative bodies of other substantially interested States. The lead investigating State is the State which is responsible for conducting investigations on the basis of an agreement of participating States with a substantial interest.

(6) The investigator or expert investigation commission is guided by a common methodology for the investigation of marine casualties and incidents under a special regulation during the investigation.⁸⁾ It is possible to deviate from this methodology in special cases, if it is necessary in their professional judgment and if it is necessary to carry out the investigation.

Section 4

(1) Any marine casualty or incident shall, as a general rule, be the subject of only one investigation carried out by an investigating magistrate or a specialized investigative commission or the investigative body of the investigating State with the participation of an investigative body of another Member State of the European Union, Iceland, Liechtenstein and Norway (hereinafter referred to as a "Member State") with a substantial interest. If the Slovak Republic and one or more Member States participate in the investigation, the Slovak Republic shall cooperate with the participating Member States to agree on the investigative procedures and the appointment of the lead investigating State. If the Slovak Republic is a state with a substantial interest, the investigator or expert investigation commission has the same rights and access to witnesses and evidence as the investigative body of another investigating Member State, as well as the right to take into account the opinion of the lead investigating State. If the Slovak Republic is the lead investigating State, it shall ensure equal rights and access to witnesses and evidence to the investigating authority of another Member State with a substantial interest as has the investigative body of another Member State which carried out the investigation, as well as the right to reflect its opinion.

(2) Concurrent investigations into the same marine casualty or incident may be carried out only in an exceptional case, and the reasons for such concurrent inquiries must be communicated to the European Commission by the investigator or expert investigation commission. The investigator or expert investigation commission shall also cooperate with the investigative bodies of the Member States with a view to the mutual exchange of the relevant information obtained in the course of its investigations in question in order to achieve common conclusions.

(3) The Investigator or the expert investigation commission may not take any measure that could unduly prevent, suspend or delay the conduct of the investigation.

(4) The investigator or expert investigation commission is responsible for investigation and coordination with the investigative bodies of the other Member States with a substantial interest until they mutually agree which of them will be the investigative body of the lead investigating State.

(5) The investigator or expert investigation commission is responsible for investigating a marine casualty or incident involving a ro-ro ferry ship⁹⁾ or a high-speed passenger ship¹⁰⁾ and the Slovak Republic is a state with a substantial interest and which was initiated by the investigation body of a state in the territorial waters or inland waters of which¹¹⁾ a marine casualty or incident occurred or if a marine casualty or incident occurred outside territorial waters or inland waters, the investigative body of the Member State from which the ro-ro ferry or high-speed passenger craft sailed from last and is responsible for coordination with the other Member States with a substantial interest only with the designation of the Slovak Republic as the lead investigating State on the basis of the mutual agreement of the Member States with a substantial interest.

Section 5

(1) The investigator or expert investigation commission has the right to the information necessary for carrying out the investigation and is entitled

a) to free access to the area or site of the marine casualty or incident as well as to any seagoing ship, wreck or structure including cargo, debris,

b) to provide for an immediate inventory of evidence and directed search for wreckage, debris or other objects for the purpose of their examination or analysis and their removal,

c) to require the examination or analysis of the evidence referred to in point (b) and to the free access to the results of such examination or analysis,

(d) to free access to information and recorded data, including voyage data (VDR) data relating to the seagoing vessel, voyage, cargo, crew or any other person, subject, state or circumstance, and to copy and use the information

e) to free access to the results of the surveys of victims' bodies or tests carried out on samples taken from the victims' bodies,

f) to require and have free access to the results of an examination of persons providing the operation of a seagoing ship or any other person concerned, or the results of tests carried out on samples taken;

g) to interview witnesses without the presence of a person whose interests could be considered an obstacle to the investigation,

h) to obtain records of technical inspections and information from the State, under whose flag the seagoing ship sails, the owners of the classification societies or any other persons concerned, if these persons or their representatives are established in the Member State,

i) request assistance from the competent authorities of the States concerned including the inspectors of the State under the flag of which the seagoing ship is sailing, shoreline officers, maritime transport operators, search and rescue teams, ship pilots or other persons engaged in port or maritime operations.

(2) An investigator or expert investigation commission may commence an investigation, regardless of when he/she receives a notification of a marine casualty or incident. He/she is independent and may obtain sufficient evidence necessary for the independent conduct of the investigation.

(3) An investigator or expert investigation commission may also investigate events other than marine casualties or incidents if such an investigation does not jeopardize their independence.

(4) Evidence, reports and notifications acquired or received by the investigator or expert investigation commission during the investigation, records confirming the identity of the persons who provided the evidence in the investigation and information concerning the participants of a marine casualty or incident that are of a particularly sensitive or private nature, including information on their state of health, may not be made available¹²⁾ for purposes other than the investigation unless the public interest is concerned; this is without prejudice to the provisions of a separate regulation.¹³⁾

Section 6

(1) An investigator or expert investigation commission, in the framework of ongoing cooperation with the investigative bodies of other Member States,

a) uses material equipment and facilities for the investigation of wrecks and equipment of seagoing ships and other items of importance for the investigation, including the collection and evaluation of information from the voyage data recorder (VDR) and other electronic devices,

b) provides and uses the technical assistance or expertise needed to carry out specific tasks,

c) collects and uses information relevant to the analysis of marine casualty and incident data and the issuing of safety recommendations to the European Commission; the safety recommendation is the proposal of the investigative body of the State conducting or leading the investigation on the basis of the information obtained from this investigation or the proposal of the European Commission acting on the basis of an analysis of the abstract data and the results of the investigations carried out,

d) develops common principles for complying with safety recommendations and adjusting investigative methods,

e) administers the early warning system according to Section 11,

f) develops the rules on the confidentiality of the common use of witness evidence and the processing of data and other records pursuant to Section 5 par. (4) in respect of the Member States and States other than a Member State (hereinafter referred to as a "third State"),

g) organizes, where appropriate, training for individual investigators,

h) promotes cooperation with the investigative bodies of third States and with international organizations for the investigation of marine casualties,

i) provides all relevant information to the investigative body.

(2) The activities carried out in the framework of an investigation, involving an investigator or expert investigation commission and an investigative body of one or more Member States shall be free of charge.

(3) If in the context of the investigation, the investigating authority of a Member State, which is not involved in the investigation, the investigator or expert investigation commission shall agree to the payment of the costs incurred with the investigative bodies of the Member States involved in the investigation.

Section 7

(1) If an investigator or expert investigation commission investigates a marine casualty or incident with the participation of the investigative body of a third state, which is a state with a substantial interest, it is obliged to cooperate with the investigating authority of the third state and allow, on the basis of a mutual agreement, the investigative body of a third state access at any stage to an investigation and to conduct an investigation and submit a report from an investigation under this government regulation.

(2) An investigator or expert investigation commission may decide not to carry out a parallel investigation, if an investigation conducted by an investigative body of a third State with a substantial interest involving the investigative bodies of one or more Member States is carried out in accordance with the Resolution of the International Maritime Organization A. 849 (20).

Section 8

The investigator or expert investigation commission is required to

a) keep all information from nautical maps, logbooks, electronic and magnetic recordings and video recordings including information from VDRs and other electronic devices relating to the time of a marine casualty or incident, before and after it,

b) prevent the overwriting or other alteration of the information referred to in a),

- c) prevent interference from any other equipment which may be considered as relevant for the investigation,
- d) collect and store all evidence without delay for the purposes of the investigation.

Section 9

(1) The investigator or expert investigation commission shall publish an investigation report including its conclusions and recommendations to the public upon termination of the investigation, within 12 months of the date of the marine casualty or incident in accordance with Annex No. 2. If it is not possible to draw up the final report of the investigation within this time limit, an interim report from the investigation shall be published within 12 months of the date of the marine casualty or incident. The investigator or expert investigation commission may decide to draw up a simplified investigation report if the investigation does not concern a very serious marine casualty or a serious marine casualty, and it does not follow from the conclusions that they will contribute to the prevention of marine casualties or incidents in the future.

(2) If the Slovak Republic is the lead investigating Member State, the investigator or the expert investigation commission shall send a copy of the final, simplified or preliminary report of the investigation to the European Commission. It shall take into account any technical comments by the European Commission on the final reports of the investigation, without prejudice to the nature of the findings.

Section 10

(1) The investigator or expert investigation commission shall draw up safety recommendations, if necessary, based on an analysis of the data obtained and the overall results of the investigations carried out.

(2) The investigator or expert investigation commission shall ensure that the addressees comply with the safety recommendations issued by them and that measures are taken upon them in accordance with the European Union law and the international law.

(3) The investigator or expert investigation commission in the safety recommendation does not determine responsibility or blame for a marine casualty or incident.

Section 11

If an investigator or expert investigation commission, without prejudice to its right to give an early warning, concludes at any stage of the investigation that it is necessary to take urgent measures to prevent the risk of new marine casualties or incidents at the European Union level, it shall immediately inform the European Commission on the need to issue an early warning.

Section 12

An investigator or expert investigation commission shall inform the European Commission on marine casualties and incidents in accordance with Annex No. 1. It shall also provide the European Commission with data resulting from the investigation in accordance with the database of the European Marine Casualty Information Platform.

Section 13

This Government Regulation takes over the legally binding acts of the European Union listed in Annex No. 3

Section 14

This Government Regulation enters into force on 1 June 2011.

Iveta Radičová v.r.

ANNEX 1 DATA ON MARINE CASUALTIES OR INCIDENTS

1. Responsible Member State/contact person
2. Member State investigator
3. Role of the Member State
4. Affected coastal state
5. Number of States with a substantial interest
6. States with a substantial interest
7. Notifying entity
8. Time of notification
9. Date of the notification

10. Name of the seagoing ship
11. IMO number/distinguishing letters
12. State flag of the seagoing ship
13. Type of the marine casualty or incident
14. Type of the seagoing ship
15. Date of the marine casualty or incident
16. Time of the marine casualty or incident
17. Position – latitude
18. Position – longitude
19. Location of the marine casualty or incident
20. Port from which the seagoing ship set sail
21. Port to which the seagoing ship is sailing
22. Schedule of sailing
23. Voyage segment
24. Operation of the seagoing ship
25. Place on board
26. Loss of life:
 - a) crew,
 - b) passengers,
 - c) others
27. Serious personal injury:
 - a) crew,
 - b) passengers,
 - c) others
28. Pollution
29. Damage to a seagoing ship
30. Damage to cargo
31. Other damage
32. Brief description of the marine casualty or incident
33. Brief description of the reasons not to carry out the investigation.

Note: The data referred to in points 10 to 12, 14, 20 to 30 and 32 shall be reported for each seagoing ship if the marine casualty or incident relates to more than one seagoing ship.

ANNEX 2 CONTENTS OF THE INVESTIGATION REPORT

Foreword

The foreword states the primary purpose of the investigation, and it is stated that the safety recommendation does not in any way create a presumption of responsibility or guilt and that the investigation report is not drawn up in terms of content and style for use in court proceedings.

In principle, the investigation report does not refer to the evidence or the possible connection of any person mentioned in the investigation report with the person who provided the evidence during the investigation.

1. Summary

This section describes the basic facts of a marine casualty or incident: what happened, when, where and how it happened; it

shall be stated whether a marine casualty or incident has resulted in death, injury, damage to a seagoing ship, cargo, a third party or the environment.

2. Specific information

This section contains separate sections of information that the investigator or expert investigation committee considers to be facts and justifies the analysis.

These sections include in particular the following information:

2.1. Data on a seagoing ship:

- a) state flag/nautical register,
- b) identification mark,
- c) the main characteristics,
- d) ownership and management,
- e) design data,
- f) minimum crew for safety,
- g) permitted cargo.

2.2. Voyage particulars:

- a) ports from which the seagoing vessel has been deployed,
- b) type of voyage
- c) cargo information,
- a) crew,

2.3. Information on a marine casualty or incident

- a) type of the marine casualty or incident
- b) date and time,
- c) position and location of the marine casualty or incident.
- d) external and internal environment,
- e) operation of the vessel and voyage segment,
- f) place on board,
- g) data about the human factor,
- h) consequences (for people, seagoing ship, cargo, environment, others).

2.4. Participation of port authorities and emergency response:

- a) who was involved,
- b) the means used,
- c) the reaction speed,
- d) measures taken,
- e) achieved results.

3. Description of the event

In this section, a marine casualty or incident is chronologically described as a sequence of events before, during and after a marine casualty or incident, and the participation of any person, material, environment, facility or external agent. The period described in this section depends on the time frame of those specific events that directly contributed to the marine casualty or incident. This section also contains all important details of the investigation, including the results of the trials or tests.

4. Analysis

It shall contain separate sections analyzing each individual incident of a marine casualty or incident and commenting on the results of all relevant trials or tests carried out during the investigation and any security measures already taken to prevent the occurrence of marine casualties or incidents.

These relate in particular to

- a) a marine casualty or incident and the environment,

b) misconduct and omission, events related to dangerous substances, environmental impact, failure of the seagoing vessel equipment and external influences,

c) facts involving the activities of persons, the operation of the seagoing ship, the management of the coastal State or the effect of regulation.

The analysis and comments make it possible to draw logical conclusions from the investigation report and to identify any factors that have contributed to the marine casualty or incident, including risk factors, for which the current measures to prevent marine casualties or incidents or to exclude or reduce their consequences are considered to be inadequate or lacking.

5. Conclusions

This section unifies the identified factors that have contributed to the marine casualty or incident and missing or inadequate measures (material, functional, symbolic or procedural) for which security measures should be taken to prevent marine casualties or incidents.

6. Safety recommendations

This part of the investigation report contains safety recommendations based on analysis and conclusions relating to specific areas, in particular legislation, seagoing ship construction, procedures, inspections, management, health and safety at work, training, work related to the repair of the seagoing ship, maintenance, coastguard assistance and emergency measures. Safety recommendations are intended for those who can implement them most effectively; in particular ship-owners, managers, recognized classification societies, maritime administrations, maritime transport operators, competent emergency authorities, international maritime organizations and European institutions, with the aim of preventing marine casualties and incidents. This section also includes all preliminary safety recommendations that may have been submitted during the investigation or any security measures taken during the investigation.

7. Appendices

The following shall, in particular, be accompanied by the following information in written or electronic form as appropriate:

a) photographs, films, sound recordings, maps, drawings,

b) applicable standards,

c) used technical terms and abbreviations,

d) special safety studies,

e) different information.

ANNEX 3

LIST OF LEGALLY BINDING ACTS OF THE EUROPEAN UNION

Directive 2009/18 / EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35 / EC and Directive 2002/59 of the European Parliament and of the Council / EC (OJ L 131, 28.5.2009).

1) [Section 28 para. 1 of Act No. 435/2000 Coll.](#) on Maritime Navigation, as amended.

2) [Section 28 para. 4 of Act No. 435/2000 Coll.](#) , as amended by Act No. [440/2010 Coll.](#)

3) [Section 2 letter l\) Regulation of the Government of the Slovak Republic No. 581/2006 Coll.](#) on the system of mandatory controls for the safe operation of ro-ro ferries and high-speed passenger craft in regular transport, as amended by the Regulation of the Government of the Slovak Republic No. [364/2010 Coll](#)

4) [Section 2 letter e\) of Act No. 435/2000 Coll.](#) , as amended.

5) [Section 2 letter g\)](#) and [Section para. 51 2 of Act No. 435/2000 Coll.](#) , as amended.

6) [Section 28 para. 3 of Act No. 435/2000 Coll.](#) , as amended by Act No. [440/2010 Coll.](#)

7) [Section 28 para. 2 of Act No. 435/2000 Coll.](#) , as amended by Act No. [440/2010 Coll.](#)

8) Article 2 letter e) Regulation of the European Parliament and of the Council of 27 June 2002 No 1406/2002, establishing a European Maritime Safety Agency (Special edition of the Official Journal of the European Union, Chapter 7/Vol. 7).

9) [Section 2 letter a\) Government Regulation of the Slovak Republic No. 581/2006 Coll.](#)

10) [Section 2 letter b\) Government Regulation of the Slovak Republic No. 581/2006 Coll.](#)

11) Convention on the High Seas (notification No. [53/1994 Coll.](#)).

12) [Section 18 of Act No. 428/2002 Coll.](#) on the protection of personal data.

[Section 18 of Act No. 576/2004 Coll](#) on health care, services related to the provision of health care and on the amendment of some laws.

13) Act No. [473/2005 Coll.](#) on the provision of services in the field of private security and on the amendment of certain laws (the Private Security Act), as amended.