

DISSEMINATION OF AIS DATA NORWEGIAN COASTAL ADMINISTRATION POSITION

Introduction

There is no legislation in Norway which prohibits distribution of AIS-data across borders within the EU and the EEA. Norway is about to incorporate Directive 2009/17/EF, and the purpose behind these provisions is to strengthen the communication systems which enable such exchange of information.

Whether this information can be detained by any state bodies – in particular the Norwegian Coastal Administration – is however a separate issue governed by the Norwegian Open Files Act 2009. Within the meaning of the Act, collocated AIS-data will be regarded as a “document”, subject to the regular provisions of the Act as regards access to information. The main rule is therefore that anyone has the right to access the AIS-data.

Exchange of AIS data across borders

The Norwegian legislation as regards exchange of information across borders is strongly influenced by EU Directive 2002/59/EC which is now replaced by Directive 2009/17/EC, establishing a Community vessel traffic monitoring and information system.

Directive 2009/17/EF was passed on 23 April 2009 and will amend the 2002 Directive in a number of ways. Article 9, however, remains in force, stating that Member States shall “*take necessary and appropriate measures to provide themselves gradually, with appropriate equipment and shore-based installation for receiving and utilising the AIS information*”.

Further, the 2009 Directive inserts Article 22 a “Safe Sea Net” into the 2002 Directive, which requires Member states to establish maritime information management systems, at national or local level to process the information referred to in the 2002 Directive. This includes AIS information, and article 22a (2) states that “*the systems set up pursuant to paragraph 1 shall allow the information gathered to be used operationally, and shall satisfy, in particular the conditions laid down in Article 14*”. Article 14 requires member states to set up communication systems which enable electronic data exchange and 24 hour transmission of this information.

The 2009 Directive does not restrict the sharing of information with other national authorities. On the basis of the provisions implemented by the 2009 Directive, the aim is to facilitate the sharing of information including AIS data.

Member states are required to bring into force the laws, regulations and administrative provisions necessary to comply with the 2009 Directive by 30 November 2010.

The right to access AIS-data under Norwegian Law

The distribution of AIS-data is under Norwegian Law governed by the Open Files Act 1 January 2009.

Section 9 of the Act applies to information saved in data bases. The provision states that information which is saved in a data base processed by any official body, must – by request

from any private person or official bodies – be collocated in a document if this can happen without substantial effort or unreasonable use of resources.

When the information is collocated, it is a “document” within the meaning of the Open Files Act subject to the regular provisions of the Act as regards access to information.

The main rule under the Act (section 3) is that all documents are accessible unless otherwise stated in chapter 3 of the Act. A formal document containing AIS-data will not be covered by any of the exceptions from the right to information found in chapter 3. This means that anyone have the right to access a document containing AIS-data, without any further reasoning.