Commission Delegated Regulation (EU) 2020/473 of 20 January 2020 supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council with regard to the standards for databases for the Union certificates of qualification, service record books and logbooks

COMMISSION DELEGATED REGULATION (EU) 2020/473

of 20 January 2020

supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council with regard to the standards for databases for the Union certificates of qualification, service record books and logbooks

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC[(1)], and in particular Article 25(2) thereof,

Whereas:

(1) In order to facilitate mobility and ensure the safety of navigation and the protection of human life and the environment, it is essential for crew members to hold certificates proving their qualifications. In order to obtain such certificates, crew members should record their navigation time by means of valid entries in the crew member's service record book that may be crossed-checked with entries in the logbooks of the craft on which the crew member served.

(2) In order to properly implement Directive (EU) 2017/2397 and to prevent fraud, the competent authorities that issue certificates in accordance with that Directive should ensure that crew members hold only a single specific certificate at a certain point of time. In the context of identifying a crew member, where relevant, due account should be taken of Regulation (EU) No 910/2014 of the European Parliament and of the Council[(2)].

(3) In order to contribute to the efficient administration of Union certificates of qualification, pursuant to Article 25(1) of Directive (EU) 2017/2397 Member States that issue certificates in accordance with Directive (EU) 2017/2397 should set up registers for recording data on the Union certificates of qualification, service record books and logbooks as well as on documents recognised pursuant to Article 10(2) of Directive (EU) 2017/2397.

(4) In order to facilitate the exchange of information between Member States and the Commission for the purpose of implementing, enforcing and evaluating Directive (EU) 2017/2397, as well as for statistical purposes, maintaining safety and ease of navigation, Member States should make available/include data on those documents and their status, using a database kept by the Commission.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/473. (See end of Document for details)*

(5) For the purposes of the same objectives, this database should also serve to provide information on documents recognised pursuant to Article 10(2) or (3) of Directive (EU) 2017/2397.

(6) The fact that certificates of qualifications and service record books are held by crew members while the logbook is linked to a craft requires the separate management of those data under two different frameworks. In this context, the existence of the European Hull Data Base established by Directive (EU) 2016/1629 of the European Parliament and of the Council[(3)], which includes information relating to inland waterway craft for the use of competent authorities, should be taken into account.

(7) Due account should be taken of relevant data exchange specifications laid down in relevant Union law, as well as of the principles and recommendations set out in the EU eGovernment Action Plan 2016-2020[(4)] and the European Interoperability Framework[(5)]. Due care should also be taken that, as far as possible, the specifications remain technology-neutral and open to innovative technologies. The once-only and interoperability-by-default principles should be applied.

(8) Whenever the measures provided for in this delegated Regulation entail the processing of personal data, it should be carried out in accordance with Union law on the protection of personal data, in particular Regulation (EU) 2018/1725 of the European Parliament and of the Council[(6)] with regard to the processing by the European Commission and Regulation (EU) 2016/679 of the European Parliament and of the Council[(7)] with regard to the processing by the Member States competent authorities.

(9) The Member States, represented by the relevant competent authorities, determine the purposes and means of processing of personal data in the national registers. The Commission, by keeping the database that is providing the solution to exchange the data among Member States is also a controller. Member States together with the Commission are joint controllers of the personal data processed in the Union database. Article 26 of Regulation (EU) 2016/679 and Article 28 of Regulation (EU) 2018/1725 place an obligation on joint controllers to determine, in a transparent manner, their respective responsibilities for compliance with the obligations under those Regulations. This Regulation determines those respective responsibilities.

(10) In order to ensure equal access rights on the basis of Regulation (EU) 2016/679 and of Regulation (EU) 2018/1725, the Commission should be regarded as the controller of personal data relating to the management of access rights to the Union database.

(11) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725.

(12) In the interest of coherence, the provisions of this Regulation should generally apply from the same date as provided for the transposition of Directive (EU) 2017/2397. An exception should however be provided for the provisions concerning the operation of the database by the Commission during the test phase and its role as controller for the processing of access rights,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/473. (See end of Document for details)*

Article 1

Subject matter

This Regulation sets the standards laying down the characteristics and conditions for use of the databases for Union certificates of qualification, service record books and logbooks issued in accordance with Directive (EU) 2017/2397 and for documents recognised pursuant to its Article 10(2)-(3).

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘Union database’ means the database provided by the Commission pursuant to Article 25(2) of Directive (EU) 2017/2397 to record and exchange data on certificates of qualifications and service record books referred to in Article 25(1) of Directive (EU) 2017/2397 and on certificates of qualifications and service record books recognised pursuant to its Article 10(3);

(b) ‘European hull database (EHDB)’ means the database provided by the Commission pursuant to Article 25(2) of Directive (EU) 2017/2397 to record and exchange the data on the logbooks referred to in Article 25(1) of that Directive;

(c) ‘National registers’ means the registers of the Union certificates of qualification, service record books and logbooks and, where relevant, of documents recognised pursuant to Article 10(2) of Directive (EU) 2017/2397, which are established and kept by Member States pursuant to Article 25(1) of that Directive

(d) ‘crew member identification number’ (CID) means a number generated by the Union database that identifies a crew member registered in that database and that is unique to the holder;

(e) ‘Status “active”’ means that certificates of qualification and specific authorisations are valid;

(f) ‘Status “expired”’ means that certificates of qualification and specific authorisations are no longer valid because the validity period came to an end or because they have been replaced by a new certification of qualification or specific authorisation following a need for change of administrative data or the validity period coming to an end;

(g) ‘Status “suspended”’ means that certificates of qualification and specific authorisations are no longer valid because measures have been taken by competent authorities in accordance with Article 14(2) of Directive (EU) 2017/2397;

(h) ‘Status “withdrawn”’ means that certificates of qualification and specific authorisations are no longer valid because measures have been taken by competent authorities in accordance with Article 14(1) of Directive (EU) 2017/2397;

(i) ‘Status “lost”’ means that certificates of qualification and specific authorisations have been declared lost to the competent authority;

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(j) 'Status "stolen"' means that certificates of qualification and specific authorisations have been declared stolen to the competent authority;

(k) 'Status "destroyed"' means that certificates of qualification and specific authorisations have been declared destroyed to the competent authority.

(l) 'metadata' means data processed in the Union database for the purposes of sending or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the electronic communications content, and the date, time, duration and type of communication.

Article 3

Information on the certificates of qualifications and service record books

1 The Commission shall set up the Union database. It shall manage it in accordance with the requirements laid down in Annex I. It shall be responsible for its technical operations and its maintenance. The Commission shall take all measures necessary to ensure the confidentiality, integrity and availability of the Union database.

2 Member States that issue certificates in accordance with Directive (EU) 2017/2397 shall make available machine-to-machine to the Union database the registers referred to in Article 25(1) of Directive (EU) 2017/2397 concerning the data referred to in Article 25(1) of Directive (EU) 2017/2397.

3 Without prejudice to paragraph 4 each of the Member States' competent authority designated as controller for the data processed in the national registers and the Commission shall be joint controllers for the processing of personal data in the Union database. Responsibilities shall be allocated among joint controllers in accordance with Annex III.

4 The Commission shall be regarded as controller for the processing of personal data necessary to grant and manage access rights to the Union database.

Article 4

Information on the logbook

1 Member States shall record the data on the logbooks referred to in Article 25(1) of Directive (EU) 2017/2397 in the EHDB,

2 Conditions for the use of the EHDB for the purpose of recording the data related to logbooks in accordance with Article 25(2) of Directive (EU) 2017/2397 are laid down in Annex II.

Article 5

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 18 January 2022 with the exception of its Article 3(1) and (4) that shall apply from the date of entry into force of this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/473. (See end of Document for details)*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 January 2020.

For the Commission

The President

Ursula VON DER LEYEN