

Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC

DIRECTIVE (EU) 2016/1629 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

- (1) Directive 2006/87/EC of the European Parliament and of the Council⁽⁴⁾ establishes harmonised conditions for issuing technical certificates for inland waterway vessels throughout the Union's inland waterways.
- (2) The technical requirements for vessels navigating on the Rhine river are established by the Central Commission for Navigation on the Rhine (CCNR).
- (3) The technical requirements set out in the Annexes to Directive 2006/87/EC incorporate most of the provisions laid down in the Rhine Vessel Inspection Regulations, in the version approved in 2004 by the CCNR. The conditions and technical requirements for issuing inland navigation certificates under Article 22 of the Revised Convention for Rhine Navigation are updated regularly and are recognised as reflecting current technological developments.
- (4) Given the different legal frameworks and timeframes for the decision-making procedures, it is difficult to maintain the equivalence between the Union inland navigation certificates issued pursuant to Directive 2006/87/EC and the certificates issued pursuant to Article 22 of the Revised Convention for Rhine Navigation. This results in a lack of legal certainty, which has a potentially negative impact on navigation safety.

- (5) In order to achieve harmonisation at Union level, and to prevent distortions of competition and varying levels of safety, the same technical requirements should be applied to the whole of the Union's inland waterways and should be updated regularly.
- (6) Since the CCNR has built up significant expertise in developing and updating technical requirements for inland navigation vessels, that expertise should be fully used to benefit the inland waterways in the Union. A European Committee for drawing up Standards in Inland Navigation (CESNI), acting under the auspices of the CCNR and open to experts from all Member States, is responsible for drawing up the technical standards in the field of inland navigation to which reference should be made by the Union.
- (7) Union inland navigation certificates attesting that craft are fully compliant with the technical requirements should be valid on all Union inland waterways.
- (8) There should be greater harmonisation of the conditions for the issuing, by Member States, of supplementary Union inland navigation certificates for operations on Zone 1 and 2 waterways (estuaries) and for operations on Zone 4 waterways.
- (9) In the interest of safety, standards should be harmonised to a high degree and in such a way that there is no reduction in safety standards on the Union inland waterways. However, Member States should be allowed, after consulting the Commission, to establish specific provisions concerning additional or reduced technical requirements for certain zones, provided that such measures are limited to the specific subjects set out in Annexes III and IV.
- (10) While maintaining an adequate level of safety, Member States should have the possibility to derogate from this Directive in certain cases related to navigable waterways that are not linked to the inland waterways of other Member States or to certain craft that operate exclusively on a national waterway. Where such derogations cover all craft navigating in a Member State, it would be a disproportionate and unnecessary obligation for that Member State to transpose all of the obligations set out in this Directive. Member States cannot issue Union inland navigation certificates unless they have transposed the relevant obligations under this Directive.
- (11) Derogations from this Directive and recognition of equivalences for specific craft should be possible in order to accommodate alternative approaches or to promote innovation or to prevent unreasonable costs, provided that equivalent or adequate safety is ensured. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission concerning such derogations and recognitions of equivalences. The Commission should have the possibility to refer to recommendations by CESNI on such derogations and recognitions of equivalences. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁶⁾.
- (12) For reasons of administrative, technical and economic efficiency, Member States should have the possibility to designate competent authorities responsible for ensuring conformity with this Directive and its correct application in accordance with their national practices.

- (13) A Union inland navigation certificate should be issued to a craft that passes a technical inspection carried out prior to that craft being put into service. This technical inspection should be used to check whether the craft complies with the technical requirements set out in this Directive. The competent authorities of the Member States should be entitled at any time to control such compliance and the availability on board of a valid inland navigation certificate.
- (14) It is appropriate, within certain time limits and depending on the category of craft concerned, to determine the period of validity of Union inland navigation certificates on a case-by-case basis.
- (15) In order to maintain a high degree of safety in inland navigation, it is necessary to lay down detailed provisions concerning the replacement, renewal, extension of validity and issuing of new Union inland navigation certificates.
- (16) To ensure that this Directive is implemented in an efficient manner, information relating to inland waterway craft should be entered into the European Hull Data Base (EHDB) for the use of competent authorities. The EHDB should in particular provide an option to verify the history of any pending applications for certificates and information on all valid certificates already issued to the craft in question. The Commission should keep and adapt the EHDB so that it can fully serve the application of this Directive.
- (17) The measures set out in Directive 2009/100/EC of the European Parliament and of the Council⁽⁶⁾ need to remain in force for vessels not covered by this Directive.
- (18) In order to improve the clarity of Union legislation, the scope of Directive 2009/100/EC should be adapted to take into account the complementary scope of this Directive and developments regarding international agreements. Directive 2009/100/EC should therefore be amended.
- (19) A transitional regime should be applied to craft in service not yet carrying a Union inland navigation certificate when they undergo a first technical inspection under the revised technical requirements established by this Directive.
- (20) For the purposes of better regulation and simplification, it should be possible for this Directive to make reference to international standards without duplicating them in the Union legal framework.
- (21) CESNI has been established to facilitate harmonisation of technical standards applied in the inland waterway sector across Europe. In order to ensure a high level of safety and efficiency in inland navigation, to maintain the equivalence of the inland navigation certificates and to take into account scientific and technical progress and other developments in the sector, the reference to the applicable European Standard laying down Technical Requirements for Inland Navigation vessels (ES-TRIN standard) in this Directive should be kept up to date. Therefore, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of updating the reference to the most recent version of the ES-TRIN standard and setting the date of its application.

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- (22) Where duly justified by an appropriate analysis and in the absence of pertinent and up-to-date international standards to ensure safety of navigation, or where changes in the decision-making process of CESNI would compromise Union interests, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, in order to safeguard Union interests, Annex II to this Directive by providing appropriate technical requirements.
- (23) In order to amend or supplement certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the classification of a waterway; the further specification of the data to be entered in the EHDB, the types of access to as well as the instructions regarding the use and operation of that data base; the updating of the minimum technical requirements of inland waterways craft, and the amendment of Annexes III and IV to take account of scientific and technical progress, of Annex V to update and streamline its procedural provisions and of Annex VI to modify the criteria for the recognition of classification societies in order to ensure safety of navigation, as well as the amendment of any references in this Directive to Annexes II and V made necessary by the adoption of delegated acts.
- (24) When adopting delegated acts, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽⁷⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (25) In order to accommodate alternative approaches, to promote innovation, to prevent unreasonable costs, to provide for an efficient process for issuing certificates or to take account of regional circumstances, implementing powers should be conferred on the Commission as regards the authorisation of certain derogations to the technical requirements for specific craft, the recognition of classification societies and the approval of additional or reduced technical requirements for vessels operating in certain zones which are not linked to the navigable inland waterways of another Member State. These powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (26) In order to ensure an appropriate framework for coordination and cooperation with international organisations competent for inland waterway navigation, in particular the CCNR, and the development of uniform technical standards for inland navigation to which the Union and international organisations could refer, this Directive should be subject to review, particularly as regards the effectiveness of the measures that it introduces, as well as the mechanisms for cooperation with international organisations competent for inland navigation, with a view to achieving a single, uniform set of technical standards.
- (27) In Denmark, Estonia, Ireland, Greece, Spain, Cyprus, Latvia, Malta, Portugal, Slovenia and Finland, there are no inland waterways, or inland navigation is not used to a

significant extent. It would therefore be a disproportionate and unnecessary obligation for those Member States to transpose and implement this Directive.

- (28) Since the objective of this Directive, namely establishing the technical requirements necessary to ensure the safety of craft navigating on the inland waterways of the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

- (29) Directive 2006/87/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

SCOPE, DEFINITIONS AND WATERWAY ZONES

Article 1

Subject matter

This Directive establishes:

- (a) the technical requirements necessary to ensure the safety of craft navigating on the inland waterways referred to in Article 4; and
- (b) the classification of those inland waterways.

Article 2

Scope of application

- 1 This Directive applies to the following craft:
 - a vessels having a length (L) of 20 metres or more;
 - b vessels for which the product of length (L), breadth (B) and draught (T) is a volume of 100 cubic metres or more;
 - c tugs and pushers intended for towing or pushing either craft referred to in points (a) and (b) or floating equipment, or intended for moving such craft or floating equipment alongside;
 - d passenger vessels;
 - e floating equipment.
- 2 This Directive does not apply to:
 - a ferries;
 - b naval vessels;
 - c seagoing ships, including seagoing tugs and pushers, which: