



Brussels, 18.4.2018
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COMMISSION DELEGATED DIRECTIVE (EU) .../...

of 18.4.2018

amending Annexes II, III and V to Directive (EU) 2016/1629 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

1.1 European Committee for drawing up Standards in Inland Navigation (CESNI)

The Central Commission for Navigation on the Rhine (CCNR) is an international organisation with regulatory competences for inland navigation transport matters in the Rhine. Four Member States (Belgium, France, Germany and the Netherlands) and Switzerland are parties to the CCNR.

In 2015, the CCNR approved the creation and functioning of the European Committee for drawing up Standards in Inland Navigation (CESNI). Its mission includes the adoption of technical standards in inland navigation in various fields, in particular as regards vessels, information technology and crew, the uniform interpretation of these standards and of the corresponding procedures as well as deliberations on safety of navigation, protection of environment or other areas of navigation.

CESNI is composed of experts representing Member States of the CCNR and of the EU which have voting rights on the basis of one vote per State.

The EU is not a party to the CCNR or to CESNI. However, it may participate in the work of CESNI, along with international organisations whose mission covers the areas concerned by CESNI, without voting rights.

CESNI adopts standards by unanimity of the CCNR and EU Member States present. In the absence of a consensus regarding the decision to put the adoption of standards on the agenda, CESNI decides by two-thirds majority of the votes of those Members present at the meeting. In a second step, the CESNI adopts standards by unanimity of the votes of the CCNR and EU Member States present. Once decided, standards are given a unique reference number and are published.

The CCNR has built up significant experience in establishing technical requirements for inland waterway vessels. Established in the framework of the CCNR and with the participation of all EU Member States, CESNI therefore possesses the necessary expertise and geographical representativeness to draw up standards common to the entire network of inland waterways in the European Union.

1.2 The European standard laying down technical requirements for inland navigation vessels (ES-TRIN)

One of the standards established by CESNI is the European standard laying down technical requirements for inland navigation vessels (the ES-TRIN standard). This standard lays down the uniform technical requirements necessary to ensure the safety of inland waterway vessels. It includes provisions regarding shipbuilding, fitting out and equipment for inland waterway vessels, special provisions regarding specific categories of vessels such as passenger vessels, pushed convoys and container vessels, provisions regarding vessel identification, model of certificates and register, transitional provisions as well as instructions for the application of the technical standard.

The first version of the ES-TRIN standard (ES-TRIN 2015) was adopted at the CESNI meeting on 26 November 2015.

The ES-TRIN standard is regularly updated taking account of the work of the CESNI working groups.

Regular up-date of the ES-TRIN standard is necessary to:

- maintain the high level of safety in inland navigation
- follow the technical evolution (ex. wheelhouse, navigation equipment)
- ensure compatibility with EU legal framework (ex. Non-Road Mobile Machinery regulation)

CESNI adopted the updated version of the ES-TRIN standard (ES-TRIN 2017/1) at the meeting on 6 July 2017. This edition incorporates various amendments in particular concerning the following areas:

- elevating wheelhouse
- updating of the reference to various international standards
- emission of gaseous and particulate pollutants from engines
- requirements for traditional craft
- electrical equipment and installations
- fire – fighting systems
- manufacturer’s plate for cranes
- updating of the provisions on navigation and information equipment
- corrections of the transitional provisions on type approved equipment

1.3 Consistency of the legal regimes for technical requirements

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, includes a direct reference to the ES-TRIN standard.

In order to ensure consistency of two existing legal regimes for technical requirements for inland navigation vessels (Rhine and UE) it is necessary to provide the same standards. Both EU law and CCNR Regulations will be referring to standards delivered by CESNI – to the ES-TRIN standard 2017/01 from 7 October 2018 (deadline of transposition of Directive (EU) 2016/1629 and date of applicability of ES-TRIN 2017/01).

EU law and the regulatory regime of the CCNR for inland waterway vessels will be fully aligned as of 7 October 2018.

In addition to the amendment of Annex II (reference to the ES-TRIN standard 2017/1), the amendments of Annex III and V are necessary to keep consistency between Directive 2016/1629 and ES-TRIN 2017/01.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with Article 32 of Directive (EU) 2016/1629 before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. It is foreseen to present the draft of the delegated act at the meeting of the Commission expert group on technical requirements for inland waterway vessels. The meeting was organized on 13 of October 2017.

Moreover, in order to inform widely experts and to ensure consistency between CESNI activities and the EU legal framework, the European Commission gave a presentation of the draft delegated act at the meeting of working group CESNI/PT scheduled on 27 and 28 September 2017.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

3.1 Update the reference to ES-TRIN

Annex II to Directive (EU) 2016/1629 directly refers to the ES-TRIN standard 2015/1 for technical requirements applicable for craft. In accordance with Article 31 (1) of this Directive, the Commission is empowered to update that reference to the most recent version of the ES-TRIN standard and to set the date of its application. Considering the publication of the ES-TRIN standard 2017/1, as most recent version of the ES-TRIN, the draft delegated act ensures the relevant updates. The date of application is 7 October 2018.

3.2 Procedural provisions for traditional craft

The ES-TRIN standard 2017/1 includes special provisions for the traditional craft. To keep the consistency between requirements of Directive (EU) 2016/1629 and the ES-TRIN standard, as well as to streamline the procedural provisions, it is necessary to amend Annex V to the Directive regarding detailed procedural provisions. Article 2.01 (2) of Annex V regulates composition of the inspection body. In accordance with ES-TRIN 2017/1 in case of obtaining the certificate for traditional craft, it is necessary to carry out an inspection by an expert who has a special knowledge related requirements for traditional vessels. The traditional craft expert is defined by the ES-TRIN standard 2017/1 as follows: “A person appointed by the competent authority or by an authorised institution of a Member State, who possesses special knowledge in the field of traditional craft due to his or her training and experience in the subject, and who is familiar with the relevant technical requirements and rules, also from the time period of the traditional craft.”. This expert has to be a part of the inspection body.

In accordance with Article 31 (4) of Directive the Commission is empowered to adopt delegated acts concerning the adaptation of Annex V to update and streamline administrative provisions. The draft delegated act ensures the adaptation of Article 2.01 (2) of Annex V to Directive (EU) 2016/1629 to meet ES-TRIN 2017/1 provisions

3.3 Clarification of the list of possible additional technical requirements applicable to craft on inland waterways of Zones 1, 2 and non-linked 3

Annex III to Directive (EU) 2016/1629 provides a limitative list of subjects for the national requirements to be adopted by a Member State under Article 23(1) and (2) of this Directive.

In accordance with Article 31 (3) of Directive (EU) 2016/1629 the Commission is empowered to adopt delegated acts concerning the adaptation of Annex III to scientific and technical progress.

Paragraph 2 of Annex III to Directive (EU) 2016/1629 should be updated in order to improve consistency with the provisions of the ES-TRIN standard. This paragraph 2 covers the provisions on “Strength” as well as “Stability”, by analogy with Article 3.02 of ES-TRIN. The current title of paragraph 2 is not exactly corresponding to the content of the indents. The draft delegated act ensures the relevant adaptations.

In July 2017, the Group of recognised inland navigation classification societies (GERC) has pointed out the opportunity to improve the list of Annex III to Directive (EU) 2016/1629.

Annex III listed subjects for possible additional technical requirements applicable to craft on inland navigation waterways of zones 1,2 and non-linked 3.

This list is restrictive and does not include subjects for machinery installations.

For navigation in zones 1 and 2, it seems evident to request the reinforcement of the hull structure in order to resist to a certain wave height (paragraph 2 of Annex III of Directive (EU) 2016/1629). There are not foreseen corresponding subjects for possible technical requirements applicable to machinery installations for operation in such navigation zones, especially in order to assure reliable propulsion for the craft.

Article 8.01(1) of the ES-TRIN standard does not provide specified requirements for machinery installation and requires only that engines and their ancillaries shall be designed, built and installed in accordance with best practice.

Adding paragraph “8. Machinery” in Annex III to Directive (EU) 2016/1629 will allow complementary national provisions to be adopted by a Member State for safety purpose.

The delegated act ensures the relevant adaptations.

The impacts of the suggested changes of Annex III to Directive (EU) 2016/1629 are very limited because these changes will not require any modifications of the existing national regulations but at the contrary they will improve the legal certainty and the possibilities to ensure safety in zones 1 and 2.

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THE EUROPEAN COMMISSION,

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

Having regard to 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/EC¹, and in particular Article 31(1), (3) and (4) thereof,

Whereas:

- (1) Directive 2006/87/EC of the European Parliament and of the Council² is repealed with effect from 7 October 2018 by Directive (EU) 2016/1629. Annex II to Directive (EU) 2016/1629 lays down that the technical requirements applicable to crafts are those set out in ES-TRIN standard 2015/1.
- (2) Union action in the sector of inland navigation should aim to ensure uniformity in the development of technical requirements for inland waterway vessels to be applied in the Union.
- (3) The European Committee for drawing up standards in the field of inland navigation ('CESNI') has been created on 3 June 2015 in the framework of the Central Commission for the Navigation on the Rhine ('CCNR') in order to develop technical standards for inland waterways in various fields, in particular as regards vessels, information technology and crew.
- (4) CESNI has adopted new European Standard laying down Technical Requirements for Inland Navigations vessels, the ES-TRIN standard 2017/1 at its meeting on 6 July 2017³.
- (5) ES-TRIN standard lays down the uniform technical requirements necessary to ensure the safety of inland navigation vessels. It includes provisions regarding shipbuilding, fitting out and equipment for inland navigation vessels, special provisions regarding specific categories of vessels such as passenger vessels, pushed convoys and container vessels, provisions regarding the automatic identification system equipment, provisions regarding vessels identification, a model of certificates and register, transitional provisions as well as instructions for the application of the technical standard.

¹ OJ L 252, 16.9.2016, p. 118.

² Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC (OJ L 389, 30.12.2006, p. 1).

³ Resolution CESNI 2017-II-1

- (6) The CCNR will amend its legislative framework, the Rhine Vessel Inspection Regulations, to refer to the new standard and make that new standard mandatory in the framework of the application of the Revised Convention for Rhine navigation.
- (7) Directive (EU) 2016/1629 of the European Parliament and of the Council should therefore be amended accordingly.
- (8) In the interest of coherence, the amended provisions should be transposed and apply from the same date, as initially provided for the transposition and the application of Directive (EU) 2016/1629.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive (EU) 2016/1629 is amended as follows:

- (1) Annex II is replaced by the text in Annex I to this Directive;
- (2) Annex III is amended in accordance with Annex II to this Directive;
- (3) Annex V is amended in accordance with Annex III to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest by 7 October 2018 and which shall apply from this date. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 18.4.2018

For the Commission
The President
Jean-Claude JUNCKER