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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 30.8.2023 amending Directive (EU) 2016/1629 of the European Parliament and of the Council as regards the classification of Union inland waterways and the minimum technical requirements applicable to craft

Delegations will find attached document C(2023) 5721 final.

Encl.: C(2023) 5721 final



Brussels, 30.8.2023
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COMMISSION DELEGATED REGULATION (EU) .../...

of 30.8.2023

amending Directive (EU) 2016/1629 of the European Parliament and of the Council as regards the classification of Union inland waterways and the minimum technical requirements applicable to craft

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

1.1 List of Union inland waterways divided geographically into zones 1, 2 and 3

To operate on inland waterways, vessels must obtain an inland navigation certificate confirming that a vessel complies with requirements set out in Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels¹.

These requirements are set up for different types of vessels, depending on the operational zone.

In accordance with Article 4, for the purposes of Directive (EU) 2016/1629 the inland waterways of the Union are divided in Zones 1, 2, 3 and 4. Annex I to the Directive provides a list of waterways of the Union, as divided in Zones 1, 2 and 3.

Directive (EU) 2016/1629 does not provide any methodology to divide waterways into zones, it is a responsibility of Member States.

As a main rule, this distinction is based on the construction requirements for vessels in relation to possible wave height in zones. Zones 1 and 2 these are usually big water areas (e.g. big lakes) and maritime waters intended for the inland navigation operation. Zone 3 is a basic zone covering the main rivers in the EU (Rhine, Danube). The rest of waterways are treated as Zone 4.

In line with Article 4(2), the Commission may amend Annex I to modify the classification of a waterway based on request by the Member State concerned, for waterways on its territory.

The Commission received a request by France to clarify description of Zone 1 on its territory.

The Commission received a request by Germany to modify Zones 1, 2 and 3 for waterways on its territory.

1.2 Minimum technical requirements applicable to craft on inland waterways of Zones 1, 2, 3 and 4

1.2.1 European Committee for drawing up Standards in the field of Inland Navigation (CESNI)

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

¹ 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 (OJ L 252, 16.9.2016, p. 118).

In 2015, the CCNR approved the creation and functioning of the European Committee for drawing up Standards in the field of 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 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.

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 four EU Member States and Switzerland, CESNI possesses the necessary expertise to draw up standards common to the entire network of inland waterways in the European Union.

Before the adoption of a new ES-TRIN standard by CESNI Committee the procedure in accordance with Article 218(9) TFEU is carried out. The recent Council Decision (EU) 2022/1962 of 13 October 2022 on the position to be taken on behalf of the European Union within the European Committee for drawing up Standards in the field of Inland Navigation and within the Central Commission for the Navigation of the Rhine on the adoption of standards concerning inland navigation vessels and river information services² set up the position to be taken on behalf of the Union within the European Committee for drawing up standards in the field of inland navigation (CESNI) on 13 October 2022. The position was to agree to the adoption of the European Standard laying down Technical Requirements for Inland Navigation vessels ('ES-TRIN standard') 2023/1.

1.2.2 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 (ES-TRIN). 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, 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 2015/1 was adopted at the CESNI meeting on 26 November 2015.

² OJ L 270, 18.10.2022, p. 62.

The ES-TRIN standard is regularly updated taking account of the work of the CESNI working groups and the reference to the most current version as been made in the EU (2017³, 2019⁴, 2021⁵) and CCNR legislation.

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 2023/1 at the meeting on 13 October 2022. This edition incorporates various amendments in particular concerning the following areas:

- Low flashpoint fuels and fuel cells,
- Life jackets,
- After-treatment systems,
- Waste water collection,
- Permanently installed firefighting systems for protecting objects,
- Recreational craft,
- Electric propulsion engines aft of the aft-peak bulkhead,
- Repair of engines in service,
- Retractable wheelhouses,
- Radar navigation installations and rate-of-turn indicators,
- Updating of references to the ES-RIS 2023/1,
- Special anchors with reduced mass,

but also editorial corrections.

³ Commission Delegated Directive (EU) 2018/970 of 18 April 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 (OJ L 174, 10.7.2018, p. 15).

⁴ Commission Delegated Regulation (EU) 2019/1668 of 26 June 2019 amending Directive (EU) 2016/1629 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels (OJ L 256, 7.10.2019, p. 1).

⁵ Commission Delegated Regulation (EU) 2021/1308 of 28 April 2021 amending Annexes I and II to Directive (EU) 2016/1629 of the European Parliament and of the Council as regards modifying the list of Union inland waterways and the minimum technical requirements applicable to craft (OJ L 284, 9.8.2021, p. 1–13).

1.2.3 Consistency of the legal regimes for technical requirements

Directive (EU) 2016/1629 includes in Annex II a direct reference to the ES-TRIN 2021/1 standard.

In order to ensure consistency of two existing legal regimes for technical requirements for inland navigation vessels (CCNR and EU) it is appropriate to replace ES-TRIN 2021/1 standard with ES-TRIN 2023/1 and to provide for the same date of applicability. ES-TRIN 2023/1 will be applicable under Union law and CCNR Regulations as from 1 January 2024.

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. Members of the Commission expert group on technical requirements for inland waterway vessels were consulted on the draft delegated act.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

3.1 List of Union inland waterways divided geographically into zones 1, 2 and 3

Annex I provides a list of EU waterways divided in Zones 1, 2 and 3.

In accordance with Article 4(2) the Commission is empowered to adopt delegated acts in accordance with Article 32 concerning amendments to Annex I so as to modify the classification of a waterway, including the addition and deletion of waterways. Such amendments to Annex I may be made only on request by the Member State concerned, for waterways on its territory.

It is appropriate to amend Annex I based on requests by France and Germany to modify the classification of waterways on their territories.

3.2 Update of the reference to ES-TRIN

Annex II to Directive (EU) 2016/1629 refers to the ES-TRIN 2021/1 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 and to set the date of its application. The delegated act ensures the relevant update and sets the date of application for the standard on 1 January 2024, which corresponds to the date of application of ES-TRIN 2023/1 under CCNR Regulations.

COMMISSION DELEGATED REGULATION (EU) .../...

of 30.8.2023

amending Directive (EU) 2016/1629 of the European Parliament and of the Council as regards the classification of Union inland waterways and the minimum technical requirements applicable to craft

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/EC⁶, and in particular Article 4(2) and Article 31(1) thereof,

Whereas:

- (1) Directive (EU) 2016/1629 establishes a harmonised system for issuing technical certificates for inland waterway vessels compliant with unified technical requirements.
- (2) Annex I to Directive (EU) 2016/1629 sets out a list of Union inland waterways divided geographically into Zones 1, 2 and 3.
- (3) Modification of the classification of a waterway, including the addition and deletion of waterways, can be done only on request by the Member State concerned, for waterways on its territory.
- (4) The French Republic has requested to modify the classification of waterways in Zone 1 on its territory. In particular, it provided the precise positions and description of Zone 1 in France.
- (5) The Federal Republic of Germany has requested to modify the list of waterways in Zones 1, 2 and 3 on its territory. In particular, it specified and described the waterways in Zones 2 and 3 on its territory, it provided the detailed mileage of the Elbe and a clear description of the mouth of specific rivers.
- (6) Furthermore, Annex II to Directive (EU) 2016/1629 sets out that the technical requirements applicable to crafts on Union inland waterways of Zones 1, 2 and 3 are those set out in ES-TRIN standard 2021/1. ES-TRIN standards lay down the uniform technical requirements necessary to ensure the safety of inland navigation vessels, taking into account the type of vessel, including the zone in which it operates.

⁶ OJ L 252, 16.9.2016, p. 118.

Therefore changes in the Zones within Member States may impact applicability of ES-TRIN in those areas.

- (7) Union action in the sector of inland navigation should aim to ensure uniformity in the development of technical requirements for inland waterway vessels in the Union.
- (8) The European Committee for drawing up standards in the field of inland navigation ('CESNI') was set up 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.
- (9) At its meeting on 13 October 2022, CESNI adopted a new European Standard laying down Technical Requirements for Inland Navigations vessels, namely ES-TRIN 2023/1⁷. The new standard 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.
- (10) Directive (EU) 2016/1629 should therefore be amended accordingly.
- (11) In order to allow Member States to adapt their internal rules of technical and inspection bodies to the new ES-TRIN 2023/1, the application of ES-TRIN 2023/1 should be deferred,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) Annex I is replaced by the text in Annex I to this Regulation;
- (2) Annex II is replaced by the text in Annex II to this Regulation.

Article 2

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

Article 1, point 2 shall apply from 1 January 2024.

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

⁷ Resolution CESNI 2022-II-1.

Done at Brussels, 30.8.2023

For the Commission
The President
Ursula VON DER LEYEN