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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 April 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 28.4.2021 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

Delegations will find attached document C(2021) 2853 final.

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Brussels, 28.4.2021
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COMMISSION DELEGATED REGULATION (EU) .../...

of 28.4.2021

**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**

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 have to 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. Zone 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.

On 15 May 2018 the Commission received a request by France to modify waterways on its territory by adding Zone 1.

On 2 July 2019 the Commission received a request by Sweden to modify Zones 1, 2 and 3 of waterways on its territory by adding additional inland waterways.

Following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union, it is also appropriate to remove the reference to waterways on its territory from the list of waterways provided in Annex I.

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 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.

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,

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).

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) 2020/1508 of 12 October 2020 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 (CESNI) and within the Central Commission for the Navigation of the Rhine (CCNR) on the adoption of standards concerning technical requirements for inland waterway vessels² 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 2020. The position was to agree to the adoption of the European Standard laying down Technical Requirements for Inland Navigation vessels ('ES-TRIN standard') 2021/1 and the complementary Test Standard Inland AIS 2021/3.0.

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.

The ES-TRIN standard was amended in 2017³ and 2019⁴ and the reference to this version has been made in the EU and CCNR legislation.

² OJ L 345, 19.10.2020, p. 6.

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).

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 2021/1 at the meeting on 13 October 2020. This edition incorporates various amendments in particular concerning the following areas:

- 1) Safety clearance, freeboard and draught marks (Chapter 4);
- 2) Portable fire extinguishers (Article 13.03(2) to (4))
- 3) Lithium-ion accumulators (Article 10.11);
- 4) Provision and use of individual acoustic protection equipment (Article 14.09(3));
- 5) Doors in accommodation (Article 15.02(11));
- 6) Electrical service room in passenger vessels (Article 19.07);
- 7) Recreational craft equipment (Article 26.01(1)(h));
- 8) Transitional provisions on:
 - fixed fire-extinguishing systems;
 - passenger vessel propulsion systems;
 - passenger vessel domestic waste water collection and disposal facilities;
 - European and international standards for vessels that are operated only on waterways outside the Rhine;
- 9) Liquefied natural gas (LNG) bunkering (Annex 8 (2.8));
- 10) Clarifications regarding the validity of the Union certificate on the Rhine (ESI-1-1);
- 11) Recognition of a special anchor with reduced mass (ESI-II-9);
- 12) Updating of the cross-references to European and international standards;
- 13) Numerous editorial corrections in the various language versions.

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 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 provide the same date for applicability of the ES-TRIN 2021/01. Both EU law and CCNR Regulations will be referring to the ES-TRIN 2021/01 from 1 January 2022.

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. The draft of the delegated act was consulted with members of the Commission expert group on technical requirements for inland waterway vessels scheduled on 9 March 2021. Members of the expert group gave support to 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 1 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 Sweden to modify list of their waterways, as well as to remove the references to inland waterways on the territory of the United Kingdom of Great Britain and Northern Ireland from the Union, following its withdrawal from the Union.

3.2 Update the reference to ES-TRIN

Annex II to Directive (EU) 2016/1629 refers to the ES-TRIN 2019/1 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. Considering the publication of the ES-TRIN 2021/1, as most recent version of the ES-TRIN, the draft delegated act ensures the relevant update and sets the date of application for the standard on 1 January 2022.

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

of 28.4.2021

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

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/EC⁵, and in particular Articles 4(2) and 31(1) thereof,

Whereas:

- (1) Directive (EU) 2016/1629 laid down a harmonised system for issuing technical certificates for inland waterway vessels complied with unified technical requirements.
- (2) Annex I to Directive (EU) 2016/1629 provides a list of Union inland waterways divided geographically into Zones 1, 2, and 3.
- (3) Division of waterways into zones is determined by the Member State, for waterways on its territory.
- (4) Modification of the classification of a waterway, including the addition and deletion of waterways may be done on request by the Member State concerned.
- (5) On 15 May 2018, the French Republic requested to modify the list of waterways in Zone 1 on its territory. The entry of Annex I referring to Zone 1 of Union inland waterways should accordingly be modified by adding Zone 1 in France.
- (6) On 9 July 2019, the Kingdom of Sweden requested to modify the list of waterways in Zones 1, 2 and 3 on its territory by adding additional Swedish inland waterways in Zones 1, 2 and 3.
- (7) Considering the withdrawal of the United Kingdom of Great Britain and Northern Ireland ('UK') from the Union, Annex I should be modified to remove all references to the inland waterways on its territory.
- (8) Annex II to Directive (EU) 2016/1629 sets out that the technical requirements applicable to crafts are those set out in ES-TRIN standard 2019/1.
- (9) 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.
- (10) 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

⁵ 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).

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.

- (11) At its meeting on 13 October 2020, CESNI adopted a new European Standard laying down Technical Requirements for Inland Navigations vessels, namely the ES-TRIN 2021/1⁶. 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.
- (12) Annex II to Directive (EU) 2016/1629 should thus be modified to provide that the technical requirements applicable to craft are those set out in ES-TRIN 2021/1 and should be applicable from 1 January 2022.
- (13) Directive (EU) 2016/1629 should therefore be amended accordingly,

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 2022.

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

Done at Brussels, 28.4.2021

For the Commission

The President

Ursula VON DER LEYEN

⁶ Resolution CESNI 2020-II-1