



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.1.2008
COM(2008) 37 final

2008/0021 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on reciprocal recognition of navigability licences for inland waterway vessels

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 76/135/EEC of 20 January 1976 on reciprocal recognition of navigability licences for inland waterway vessels³. The new Directive will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ See Annex II, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 76/135/EEC and the instrument amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex III to the codified Directive.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on reciprocal recognition of navigability licences for inland waterway vessels

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article ~~71~~ thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:



- (1) Council Directive 76/135/EEC of 20 January 1976 on reciprocal recognition of navigability licences for inland waterway vessels⁴ has been substantially amended⁵. In the interests of clarity and rationality the said Directive should be codified.

↓ 76/135/EEC Recital 1 (adapted)

- (2) Reciprocal recognition of navigability licences for inland waterways vessels should be achieved ~~with~~ with a view to ~~improving~~ improving the safety of inland navigation in the Community.

¹ OJ C [...], [...], [...].

² OJ C [...], [...], [...].

³ OJ C [...], [...], [...].

⁴ OJ L 21, 29.1.1976, p. 10. Directive as amended by Directive 78/1016/EEC (OJ L 349, 13.12.1978, p. 31).

⁵ See Annex II, Part A.

↓ 76/135/EEC Recital 2

- (3) It is necessary to establish under what circumstances and on what conditions Member States may interrupt the passage of a vessel.

↓ 2006/87/EC Recital 10
(adapted)

- (4) It is necessary that the measures provided for in ☒ this ☒ Directive ☒ apply to ☒ those vessels not covered by 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/EEC⁶ ☒.

↓

- (5) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex II, Part B,

↓ 76/135/EEC (adapted)

HAVE ADOPTED THIS DIRECTIVE:

Article 1

☒ In accordance with Article 21 of Directive 2006/87/EC, ☒ this Directive shall apply to vessels used for goods transport ☒ on inland waterways ☒ and having a total dead weight of 20 metric tons or more:

☒ (a) having a length of 20 metres or more; or ☒

☒ (b) for which the product of length (L), breadth (B) and draught (T) is a volume of 100m³ or more. ☒

This Directive shall not prejudice the provisions laid down in the Regulation on inspection of shipping on the Rhine and in the Agreement on transport of dangerous goods on the Rhine (ADNR).

⁶ OJ L 389, 30.12.2006, p. 1.

Article 2

1. Member States shall, to the extent required, lay down any necessary procedures for the issue of navigability licences.

However, a Member State may exempt from this Directive vessels which do not leave the inland waterways of its territory.

2. Navigability licences shall be issued by the Member State in which the vessel is registered or has its home port or, failing that, by the Member State in which the owner of the vessel is domiciled. Any Member State may request another Member State to issue navigability licences for vessels operated by nationals of the former. Member States may delegate their powers to approved bodies.

3. Navigability licences shall be made out in ☒ one of the official ☒ Community ☒ languages; they ☒ shall provide at least the information and use the system of numbering specified in Annex ☒ I ☒.

Article 3

1. Subject to paragraphs 3 to 6, each Member State shall recognise for navigation on its national waterways the navigability licences issued by another Member State in accordance with Article 2 on the same basis as if it had issued the licences itself.

2. Paragraph 1 shall apply only if the licence was issued or last extended not more than five years previously and has not expired.

The certificate issued pursuant to the Regulation on inspection of shipping on the Rhine shall be accepted as evidence, within the meaning of paragraphs 3 and 5, for its full duration.

3. Member States may require that the technical specifications laid down in the Regulation on inspection of shipping on the Rhine are complied with. They may require the certificate referred to in ☒ the second subparagraph of ☒ paragraph 2 as proof of this.

4. Member States may require vessels carrying dangerous goods as defined in the ADN to comply with the requirements laid down in that Agreement. As proof of this, they may require that the authorisation provided for in that Agreement be produced.

5. Vessels which fulfil the requirements laid down in the Regulation on inspection of shipping on the Rhine shall be admitted to all inland waterways in the Community. Evidence of compliance with these requirements may be provided by the certificate referred to in ☒ the second subparagraph of ☒ paragraph 2.

Special conditions for the transport of dangerous goods shall be considered fulfilled in all Community waterways if the vessels meet the requirements of the ADNR. ☒ Proof of compliance with those requirements ☒ may be provided by the authorisation referred to in paragraph 4.

6. Member States may require fulfilment in maritime shipping lanes of additional conditions equivalent to those required for their own vessels. Member States shall inform the Commission of their maritime shipping lanes, the list of which ☒ shall be ☒ drawn up by the Commission.

↓ 76/135/EEC

Article 4

1. Any Member State may withdraw a navigability licence which it has issued.
2. Any Member State may interrupt the passage of a vessel, where the vessel is found on inspection to be in a condition which clearly constitutes a danger to the surroundings, until the defects have been corrected. It may also do so where the vessel or its equipment is found on inspection not to satisfy the requirements set out in the navigability licence or in the other documents referred to in Article 3 as the case may be.
3. A Member State which has interrupted the passage of a vessel, or has indicated its intention to do so if the defects are not corrected, shall inform the competent authorities of the Member State where the navigability licence or the other documents referred to in Article 3 were issued of the reasons for the decision it has taken or it intends to take.
4. All decisions to interrupt the passage of a vessel taken pursuant to measures adopted in implementation of this Directive shall state in detail the reasons on which they are based. A decision shall be notified to the party concerned, who shall at the same time be informed of the remedies available to him under the laws in force in the Member States and of the time-limits allowed for the exercise of such remedies.

↓

Article 5

Directive 76/135/EEC, as amended by the Directive listed in Annex II, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

Article 6

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

↓ 76/135/EEC Art. 8

Article 7

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

Minimum information to appear on the licences

⊠ (referred to in Article 2(3)) ⊠

The information is divided into three categories:

- | | | |
|------|-------------------------|-----------------|
| I. | Compulsory: | no special sign |
| II. | required if applicable: | (x) |
| III. | useful but optional: | (+) |
1. Name of the authority or approved body issuing the document
 2. (a) Title of document
(b) (+) Number of document
 3. Issuing State
 4. Name and domicile of the owner of the vessel
 5. Name of vessel
 6. (x) Place and number of registration
 7. (x) Home port
 8. (+) Construction type
 9. (+) Utilisation
 10. Main characteristics:
 - (a) overall length in metres
 - (b) overall breadth in metres
 - (c) depth below waterline at maximum draught(s) in metres
 11. (x) Dead weight(s) in metric tons or displacement(s) in cubic metres at maximum draught(s)
 12. (x) Indication of draught marking

13. (x) Maximum authorised number of passengers
 14. (x) Total power of propelling engines in HP or kW
 15. Minimum freeboard(s) in centimetres
 16. (a) Declaration: The vessel indicated above is certified as being suitable for navigation
(b) (x) Subject to the following conditions
(c) (x) Indication of navigation restrictions
 17. (a) Date of expiry
(b) Date of issue
 18. Stamp and signature of the authority or approved body issuing the licence.
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ANNEX II

Part A

Repealed Directive with its amendment (referred to in Article 5)

Council Directive 76/135/EEC

(OJ L 21, 29.1.1976, p. 10)

Council Directive 78/1016/EEC

(OJ L 349, 13.12.1978, p. 31)

Part B

List of time-limits for transposition into national law (referred to in Article 5)

Directive	Time-limit for transposition
76/135/EEC	19 January 1977
78/1016/EEC	24 November 1978

ANNEX III

CORRELATION TABLE

Directive 76/135/EEC	This Directive
Article 1, introductory wording and point (a)	Article 1, first paragraph, introductory wording
Article 1(b)	—
—	Article 1, first paragraph, points (a) and (b)
Article 1, last sentence	Article 1, second paragraph
Articles 2 to 4	Articles 2 to 4
Article 5	—
Article 6	—
Article 7	—
—	Article 5
—	Article 6
Article 8	Article 7
Annex	Annex I
—	Annex II
—	Annex III