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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	2 August 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2019) 5646 final
Subject:	COMMISSION DELEGATED DIRECTIVE (EU) .../... of 2.8.2019 supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council as regards the standards for competences and corresponding knowledge and skills, for the practical examinations, for the approval of simulators and for medical fitness

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Delegations will find attached document C(2019) 5646 final.

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Encl.: C(2019) 5646 final



Brussels, 2.8.2019  
C(2019) 5646 final

**COMMISSION DELEGATED DIRECTIVE (EU) .../...**

**of 2.8.2019**

**supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council as regards the standards for competences and corresponding knowledge and skills, for the practical examinations, for the approval of simulators and for medical fitness**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation, and repealing Council Directives 91/672/EEC and 96/50/EC<sup>1</sup> lays down the conditions and procedures for the certification of the qualifications of persons involved in the operation of a craft navigating on Union inland waterways, as well as for the recognition of such qualifications in the Member States. It entered into force on 17 January 2018 and has to be transposed by 17 January 2022 at the latest.

The Directive highlights that the harmonisation of legislation in the field of professional qualifications in inland navigation in Europe is facilitated by close cooperation with the Central Commission for the Navigation on the Rhine (CCNR) and, and by the development of CESNI standards. The European committee for drawing up common standards in the field of inland navigation (Comité Européen pour l'Élaboration de Standards dans le domaine de Navigation Intérieure – CESNI) was created in 2015 with the main mission to adopt technical standards in various fields, in particular as regards vessels, information technology and crew. 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.

Directive (EU) 2017/2397 provides for the delegated acts to be adopted under the Directive shall, save one exception, make reference to standards established by CESNI.

At its meeting of 8 November 2018, CESNI adopted the first version of the European Standard for Qualifications in Inland Navigation (ES-QIN). It includes the following standards:

- Standards for medical fitness (Resolution CESNI 2018-II-2)
- Standards of competence for the operational level (Resolution CESNI 2018-II-3)
- Standards of competence for the management level (Resolution CESNI 2018-II-4)
- Standards of competence for passenger navigation experts (Resolution CESNI 2018-II-5)
- Standards of competence for sailing on inland waterways with a maritime character (Resolution CESNI 2018-II-6)
- Standards of competence for sailing with the aid of radar (Resolution CESNI 2018-II-7)
- Standards of competence for liquefied natural gas (LNG) experts (Resolution CESNI 2018-II-8)
- Standards for the practical examination for obtaining a specific authorisation for sailing with the aid of radar (Resolution CESNI 2018-II-9)
- Standards for the practical examination for obtaining a certificate of qualification as a passenger navigation expert (Resolution CESNI 2018-II-10)
- Standards for the practical examination for obtaining a certificate of qualification as a liquefied natural gas (LNG) expert (Resolution CESNI 2018-II-11)

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<sup>1</sup> OJ L 345, 27.12.2017, p.53.

- Standards for the practical examination for obtaining a certificate of qualification as a boatmaster (Resolution CESNI 2018-II-12)
- Standards for the additional module on supervision in the context of the practical examination for obtaining a certificate of qualification as a boatmaster (Resolution CESNI 2018-II-13)
- Standards for technical and functional requirements applicable to vessel-handling simulators and radar simulators (Resolution CESNI 2018-II-14)
- Standards for the administrative procedure for the approval of vessel-handling simulators and radar simulators (Resolution CESNI 2018-II-15)

This list of standards represents the standards required by the Directive concerning the competences, the practical examinations, the approval of simulators and the medical fitness.

The Regulations for Rhine navigation personnel will also refer to these standards and will make them applicable as of 18 January 2022 as the regulatory regime of the CCNR for professional qualifications covered by Directive (EU) 2017/2397 needs to be aligned as of 18 January 2022 in order to ensure the recognition of Rhine certificates on all EU inland waterways.

## 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Under CESNI work programme 2016-2018, CESNI experts (CESNI/QP working group) have prepared the standards for professional qualifications. The work has started on the basis of the Commission proposal of 18 February 2016<sup>2</sup> and has been finalised on the basis of Directive (EU) 2017/2397.

The preparation of the standards for professional qualifications has been the subject of intensive preparation at the level of the CESNI experts (CESNI/QP working group). A large range of public and private sector experts has been consulted in this respect. The following technical meetings have been carried out during the development of the standards at the level of the CESNI:

- Expert meetings (26-28.01.2016; 22-24.06.2016; 5-9.09.2016; 16-17.11.2016; 31.01-02.02.2017; 10-12.05.2017; 12-13.06.2017; 06.07.2017; 05-07.09.2017; 12-13.09.2017; 15-16.11.2017; 30.01-01.02.2018);
- Committee meetings (10.04.2018 and 08.11.2018).

These meetings allowed an agreement to be reached at the level of experts concerning the European standards for professional qualifications in inland navigation.

The adoption of the standards by the CESNI was the subject of a prior Council decision on the position to be taken on the Union's behalf at the meeting (Decision (EU) 2018/1663 of 6 November 2018 according to the Article 218(9) TFEU procedure).

The Commission Expert Group on social issues in inland navigation has been kept informed on the progress of the work of the CESNI in its meetings of 7 September 2017, 1 February 2018 and 21 September 2018.

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<sup>2</sup> COM(2016) 82 final.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

In accordance with Article 32 of Directive (EU) 2017/2397, the Commission shall, when adopting the delegated acts referred to in Articles 17(1) and (4), Article 21(2), Article 23(6), make reference to standards established by CESNI, provided that:

- (a) those standards are available and up-to-date;
- (b) those standards comply with any applicable requirements set out in the Annexes of the Directive;
- (c) Union interests are not compromised by changes in the decision-making process of CESNI.

The three conditions are fulfilled.

The Commission shall include the entire text of those standards in the delegated acts and shall adopt the delegated acts by 17 January 2020.

**COMMISSION DELEGATED DIRECTIVE (EU) .../...**

**of 2.8.2019**

**supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council as regards the standards for competences and corresponding knowledge and skills, for the practical examinations, for the approval of simulators and for medical fitness**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation, and repealing Council Directives 91/672/EEC and 96/50/EC<sup>3</sup>, and in particular Article 17(1) and (4), Article 21(2) and Article 23(6) thereof,

Whereas:

- (1) Directive (EU) 2017/2397 sets out the conditions and procedures for the certification of the qualification of persons involved in the operation of a craft on the Union inland waterways. The certification is aimed at facilitating mobility, ensuring the safety of navigation and ensuring the protection of human life and the environment.
- (2) In order to provide minimum harmonised standards for the certification of qualifications, the Commission has been empowered to adopt detailed rules laying down standards for competences and corresponding knowledge and skills, standards for practical examinations, standards for the approval of simulators and standards for medical fitness.
- (3) Pursuant to Article 32 of Directive (EU) 2017/2397, delegated acts should make reference to standards established by the European Committee for drawing up standards in the field of inland navigation ('CESNI') and include the entire text of those, provided that those standards are available and up-to-date, that those standards comply with any applicable requirements set out in the Annexes of the Directive and that Union interests are not compromised by changes in the decision-making process of CESNI. The three conditions were fulfilled with the adoption, by CESNI, during its meeting on 8 November 2018, of the first standards on professional qualifications in inland navigation.
- (4) The standards for competences should lay down the minimum competences required for the safe operation of the craft, and this, for the crew members at operational and management levels, for the boatmasters authorised to sail with the aid of radar and those authorised to sail on waterways with a maritime character, for the passenger navigation experts and for the liquefied natural gas (LNG) experts. Each required competence should be defined with its corresponding required knowledge and skills.

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<sup>3</sup> OJ L 345, 27.12.2017, p. 53.

- (5) In order for the competent authorities to carry out in a similar way the practical examinations required by Article 17(3) of Directive (EU) 2017/2397, standards for the practical examinations should be laid down. To this end, the standards should define, for each practical examination, the specific competences and the assessment situations, including a specific scoring system and technical requirements for craft and onshore installations. For the candidates to the qualification of boatmaster who have not previously completed an assessment at operational level, an additional module should be provided for, so that the ability to perform the related supervised tasks can also be verified.
- (6) The standards for the approval of simulators should be laid down to ensure that the simulators used for an assessment of competence are designed in such a way as to allow for the verification of the competences as prescribed under the standards for practical examinations. The standards should cover the technical and functional requirements for vessel-handling and radar simulators as well as the procedure for the administrative approval of those simulators.
- (7) In order to reduce national differences in medical requirements and examination procedures and to ensure that medical certificates which are issued to deck crew members in inland navigation are a valid indicator of their medical fitness for the work they will perform, standards for medical fitness should be laid down. The standards should specify the tests that medical practitioners are to carry out and the criteria they are to apply to determine the fitness for work of deck crew members. They should cover eyesight, hearing and physical and psychological conditions which may lead to temporary or permanent unfitness for work, as well as possible mitigation measures and restrictions. For coherence, the standards should be based on the guidelines on the medical examinations of seafarers published by the International Labour Organization and the International Maritime Organization, in particular on the criteria applied to coastal services.
- (8) The date of transposition of this delegated Directive should be aligned with the dates of transposition of Directive (EU) 2017/2397 for reasons of coherence and efficiency.
- (9) In accordance with the case law of the Court of Justice of the European Union, the information which Member States are obliged to supply to the Commission in the context of transposing a directive must be clear and precise. This is also the case for this delegated act.

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

The standards for competences and corresponding knowledge and skills referred to in Article 17(1) of Directive (EU) 2017/2397 shall be those laid down in Annex I to this Directive.

#### *Article 2*

The standards for the practical examinations referred to in Article 17(3) of Directive (EU) 2017/2397 shall be those laid down in Annex II to this Directive.

#### *Article 3*

The standards for the approval of simulators referred to in Article 21(2) of Directive (EU) 2017/2397 shall be those laid down in Annex III to this Directive.

#### *Article 4*

The standards for the medical fitness referred to in Article 23(6) of Directive (EU) 2017/2397 shall be those laid down in Annex IV to this Directive.

#### *Article 5*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 January 2022 at the latest. 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. Paragraph 1 shall not apply to a Member State that has not fully transposed and implemented Directive (EU) 2017/2397 in accordance with Article 39 (2), (3) or (4) of that Directive. Where such Member State fully transposes and implements Directive (EU) 2017/2397, it shall at the same time bring into force the laws, regulations and administrative provisions necessary to comply with this Directive and inform the Commission that it has done so.
3. 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 6*

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

#### *Article 7*

This Directive is addressed to the Member States.

Done at Brussels, 2.8.2019

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*