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COM(2016) 82 final

2016/0050 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the recognition of professional qualifications in inland navigation and repealing  
Council Directive 96/50/EC and Council Directive 91/672/EEC**

(Text with EEA relevance)

{SWD(2016) 35 final}  
{SWD(2016) 36 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. Reasons for and objectives of the proposal**

The objective of the initiative is to facilitate labour mobility in the inland waterway transport sector by ensuring that skilled workers' qualifications are recognised throughout the Union. The initiative builds upon over 19 years of experience with implementation of Directives 96/50/EC<sup>1</sup> and 91/672/EEC<sup>2</sup> which are however limited to the mutual recognition of boatmasters operating on EU inland waterways other than the Rhine river.

Inland waterway transport (IWT) is a cost-saving and energy-efficient transport mode that could be used more efficiently to support the European Union's energy efficiency, growth and industrial development goals. However, its contribution is hampered by difficulties in terms of labour mobility, persistent vacancies and skills mismatches, which continue in spite of attempts by the sector to tackle the problems at bilateral and multilateral level. Varying minimum requirements for professional qualifications across the Member States do not provide sufficient assurance for individual countries as regards the recognition of professional qualifications of crew from other Member States, in particular as this also affects the safety of navigation.

This initiative therefore proposes to extend the scope of recognition of professional qualifications beyond the level of boatmasters to all crew involved in the operation of vessels, including on the Rhine river. To instil the necessary confidence which is a prerequisite for such recognition, this initiative proposes to base the recognition of the professional qualifications on the competences that are needed for the operation of vessels and to balance the recognition of qualifications with safeguards introducing standards as regards assessment of competence, approval of training programmes and monitoring and evaluation of certification and training.

The initiative responds to long-standing calls from the sector and Member States to revise the existing outdated legal framework and replace it with a modern, competence-based framework in line with the approach towards recognition of qualifications for other modes of transport.

#### **1.2. Consistency with existing policies in this area**

Directive 91/672/EEC and Directive 96/50/EC provide for the reciprocal recognition and set minimum requirements for obtaining boatmasters' certificates. This initiative builds upon these instruments and extends the requirements to cover all crew in inland navigation in the EU, including on the Rhine river.

As there is no EU-wide sectoral legislation for the recognition of professional qualifications for workers below the level of boatmaster, the general Directive 2005/36/EC on the recognition of professional qualifications is applicable. In practice however, this Directive does not provide an effective solution for professionals performing frequent and regular cross-

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<sup>1</sup> Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community, *OJ L 235, 17/09/1996 p. 31*.

<sup>2</sup> Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway, *OJ L 373, 31.12.1991 p. 29*.

border activities in IWT and for this reason the possibilities offered by this general framework have hardly been used by the workers in the sector.

The proposal has been prepared under the Commission's policy framework for promoting IWT, NAIADES II<sup>3</sup>, entailing review of the framework on the harmonisation and modernisation of professional qualifications in the sector. As part of the new approach to governance in IWT, the Commission has strengthened its cooperation with various River Commissions, in particular with the Central Commission for the Navigation on the Rhine (CCNR). This cooperation has led amongst others to the creation of a new body open to experts from all EU Member States, known by the French acronym CESNI<sup>4</sup> whose task is to develop technical standards for the inland waterway sector. Its expertise may be used by the EU also in the area of professional qualifications in this sector. The development of minimum competence-based standards which the EU, the CCNR and other international bodies and third countries may use within their legal frameworks is an important step towards mutual recognition of qualifications for inland navigation across the EU.

### **1.3. Consistency with other Union policies**

This initiative is consistent with and contributes to the internal 'market as it helps to overcome barriers that prevent realising its full potential. It can help give businesses access to IWT services offering for the best quality, price or service available and help professionals to provide services across the EU quickly and conveniently. The initiative contributes to the 2014-2019 strategic objectives that the Commission is pursuing to promote 'a deeper and fairer internal market with a strengthened industrial base', 'a new boost for jobs, growth and investment', 'energy union' and the EU as 'a stronger global actor'.

More particularly, the initiative is consistent with the Commission's 2016 work programme which underlines both the importance of supporting labour mobility while tackling abuse and of promoting skills development, including the mutual recognition of qualifications. The present initiative illustrates a balanced approach to labour mobility for a fairer and deeper internal market as it addresses issues of persistent vacancies in the inland waterway transport sector and paves the way for measures to combat abuse or fraudulent claims. At the same time, with making the competences the cornerstone of the mutual recognition of qualification, the initiative aims at giving boost for jobs and careers.

This further accomplishment of the EU internal market for IWT is essential for improving the energy efficiency of transport and participates, with new the setting up of common standards across the EU, in making the Union a 'stronger global actor'.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **2.1. Legal basis**

The proposal is based on Article 91(1) of the Treaty on the Functioning of the European Union, which is the legal base for the adoption of Union measures relating to inland waterway transport.

### **2.2. Subsidiarity**

This initiative is justified because the objectives of the proposed action cannot be sufficiently achieved by Member States acting alone. All aspects of transporting goods over the IWT network are generally transnational. Differences in the Member States' national legislation

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<sup>3</sup> Communication: Towards Quality Inland Waterway Transport — NAIADES II COM (2013) 623 final.

<sup>4</sup> Comité Européen pour l'élaboration des standards pour la navigation intérieure

undermine the functioning of the internal market for goods and workers. Without EU action, the completion and efficient use of the Trans-European Transport Network would be jeopardised and the investments of EU funds in the IWT network would not have optimal results. Differences in legal regimes<sup>5</sup> for professional qualifications in IWT throughout the EU cannot be entirely resolved by the Member States individually or in the framework of international conventions, nor by the industry itself. This reasoning is valid for measures applying to boatmasters and for other categories of crew members. Extending the scope to include the Rhine river adds value compared to the existing legal framework as it provides for common standards that are a necessary component of the internal market for skilled workers in IWT at EU level.

### **2.3. Proportionality**

In line with measures taken for other modes of transport, competence-based EU-wide minimum requirements, verified through examinations, are only envisaged for skilled crew — boatmen and boatmasters. For unskilled crew, such as deckhands, only minimum requirements with regard to age and medical fitness are proposed.

The measure designed to certify training programmes is proportionate to its goals as it does not interfere with the national education curricula on general subjects but relates to competences and skills necessary to ensure safety of navigation and the protection of human life, and does not require that those who have already successfully completed an approved training programme in the EU to pass additional administrative exams on the same subjects already covered by their training programme.

Introducing common criteria for competence for specific risks is necessary as such requirements should be justified on safety grounds and the knowledge required should be proportional to the risk at stake.

The inclusion of information on certified qualifications in a database kept by the Commission or a designated body is necessary to streamline the exchange of information between the Member States and to ensure efficient implementation of the initiative.

To instil the necessary confidence among the Member States in the mechanism for mutual recognition, the requirements in terms of quality standards with respect to assessment of competences and skills, recognition of training programmes and monitoring of the whole certification system are also considered proportionate.

A number of measures, such as extending the requirements to crew working on inland waterways not linked to the navigable network of another Member State, have been discarded for reasons of proportionality. Member States with non-linked inland waterways nevertheless have to recognise the certified qualifications of crew members from other Member States.

As such, the proposed intervention is proportionate to its goals.

### **2.4. Choice of instrument**

For the purpose of establishing a harmonised and efficient system of recognition of professional qualifications in inland navigation and complying with the principle of proportionality, a directive is the most appropriate instrument. The present proposal also does not change the type of instrument previously used. A directive will enable Member States to take the actions needed to comply with the obligations foreseen in this Directive by taking also into account national specificities. Provided that it recognises qualifications certified by

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<sup>5</sup> The Council of the European Union, in its Conclusions of 16 June 2011, stressed the complexity of the current organisational structure of the sector.

other Member States, a Member State may also apply more stringent requirements for certifying qualifications on its own territory.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

#### **3.1. Ex-post evaluations/fitness checks of existing legislation**

An external evaluation of Directives 91/672/EEC and 96/50/EC was carried out<sup>6</sup>. The study showed that the existing framework has been partially effective in fulfilling the objective of reciprocally recognising boatmasters' certificates and harmonising conditions for obtaining the certificates, but several barriers remain. All recommendations were taken into account in the framework of the impact assessment.

#### **3.2. Stakeholder consultations**

Stakeholders were consulted on several occasions and by different methods on the various elements which are now the subject of the proposal:

- (1) In 2012 the Commission created a Common Expert Group (CEG) on professional qualifications and training standards in inland navigation. The consultation within the CEG took the form of 11 expert meetings between September 2012 and November 2014 and included international river commissions, national administrations, professional organisations, trade unions, training institutions and other associations<sup>7</sup>. Those meetings provided the opportunity for useful exchanges on the measures envisaged for a Commission proposal. They showed broad support for an initiative at EU level.
- (2) The Sectoral Social Dialogue Committee for Inland Waterway Transport at European level<sup>8</sup> was also involved in the consultations. The social partners submitted on 16 September 2013 a document entitled 'Social partners' position on professional qualifications and training standards for crew members on inland waterways transport vessels'. They pointed out that the current 'patchwork arrangement' is quite clearly no longer fit for purpose. It hampers the attractiveness of the profession and makes the sector vulnerable to illegal practices that may distort the competition. They confirmed the need for a modern and flexible regulatory tool regarding training and certification. Social partners also stressed that the proposal on professional qualifications is only one part of the puzzle. The electronic service record book, logbook and tachograph are the missing pieces that have to be addressed without too much delay in order to ensure a level playing field.

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<sup>6</sup> The evaluation of the current framework can be found on:  
<http://ec.europa.eu/transport/facts-fundings/evaluations/doc/2014-03-evaluation-report-directive-1996-50.pdf>

<sup>7</sup> The following organisations were represented: 1) international river commissions: Central Commission for Navigation on the Rhine, Danube Commission, Sava Commission, 2) United Nations Economic Commission for Europe 3) National administrations in charge of IWT policy-making and legislative and administrative activities, 4) Professional organisations: European Barge Union & the European Skippers Organisation, 5) Trade unions: European Transport Workers' Federation — IWT section, 6) PLATINA -Platform for the implementation of NAIADES, 7) IWT Training and education institutions in Europe EDINNA, 8) AQUAPOL & European Federation for Inland Ports.

<sup>8</sup> The European Inland Waterways Transport Social Partners include the European Barge Union-, the European Skippers' Organisation and the European transport Workers' Federation.

- (3) An online public consultation on the essential elements of the Impact Assessment took place from 26 March to 21 June 2013<sup>9</sup>. The Commission received a total of 94 replies from education and training organisations, entrepreneurs/ship owners, shipping companies, public authorities, ports, workers' organisations and river commissions. Responses came from a total of 16 countries. The online public consultation highlighted the fact that the problems addressed in the Commission proposal are of great importance. The responses indicated a high level of support for regulatory measures aiming to harmonise professional requirements, qualifications and examinations in inland navigation.

### **3.3. Impact assessment**

This proposal is accompanied by an impact assessment report which has been reviewed by the Regulatory Scrutiny Board, which issued a positive opinion on 31 July 2015. All the recommendations from the Regulatory Scrutiny Board have been taken into consideration in the final impact assessment report. More information on the way these have been addressed is included under section 2.2. of the impact assessment report.

In order to address the main problems identified, namely that workers face difficulties with regard to mutual recognition of professional qualifications and that local knowledge requirements may create unnecessary difficulties for boatmasters operating on certain river stretches, the policy option introducing minimum competence requirements for boatmen and boatmasters, including examination standards for training institutes, has been chosen.

This option is preferred as it offers a more effective way to improve labour mobility than the 'do nothing' and the 'voluntary measures' options.

The preferred option also addresses the difficulties for labour mobility arising from requirements for local knowledge requirements and allows Member States to carry out assessments of required competences for specific risks also for inland waterways located in another Member State, which further improves the effectiveness of this option.

The impact assessment presented two variations of the preferred option, one limiting the regulatory requirements for assessment of competences to mandatory administrative examination and one including alongside the mutual recognition of approved training programmes. Under the first variant, all boatmen and boatmasters are required to pass an administrative exam organised by a competent authority in order to have their qualifications recognised across the EU, even if they are already in possession of a diploma or certificate from an IWT education or training institute. The second variant has been preferred as it minimises the administrative burden for those applicants who have already acquired the necessary skills and who have demonstrated their competences in the course of their training, by sparing them the need to take additional exams. As a result, there is also a positive impact on attractiveness of the profession, labour mobility, access to the profession and administrative savings. The latter impact makes the second variant also more efficient compared to the first variant. Finally, this variant is also more coherent as similar legislative requirements for education and training institutes already exist at EU level for the rail and air transport sector. In these sectors, the requirements even go further as they also entail continuous training. Overall, the second variant is more coherent, more effective and more efficient and complies with the principles of proportionality as outlined in section 2.3.

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<sup>9</sup> All relevant documents can be found on: [http://ec.europa.eu/transport/media/consultations/2013-06-21-inlandnavigqualifications\\_en.htm](http://ec.europa.eu/transport/media/consultations/2013-06-21-inlandnavigqualifications_en.htm)

### **3.4. Regulatory fitness and simplification**

The private IWT sector is almost exclusively composed of SME's and micro-enterprises. They are therefore not excluded from this initiative as doing so would neutralise the effect completely. This proposal has been drafted with SME's in mind. The impact of this proposal on SMEs and micro-enterprises is positive, as they will have to bear only a small proportion of the costs, which will be more than off-set by the benefits of enhanced labour mobility.

By providing the common standards across the Union necessary to achieve the internal market for workers in IWT, the proposal streamlines the legal framework related to professional qualifications in the European IWT sector, which is currently fragmented. The proposal will replace a complex set of regional requirements with multilateral and bilateral agreements by a simpler and, more importantly, EU-wide framework for certification and mutual recognition.

The proposal minimises the administrative burden for those applicants who completed an approved training programme by avoiding that they would have to take unnecessary additional administrative exams.

The proposal also facilitates the electronic exchange of information and paves the way for the introduction of electronic tools, with a view to reduce the administrative burden whilst rendering the documents less prone to tampering

The proposal repeals Directive 91/672/EEC and Directive 96/50/EC and provides for gradual phasing-in with transitional measures.

## **4. BUDGETARY IMPLICATION**

The proposal has no implications for the EU budget.

## **5. OPTIONAL ELEMENTS**

### **5.1. Monitoring, evaluation and reporting arrangements**

It is anticipated that the Commission will submit, at the latest seven years after the end of the transposition period, a report to the European Parliament and the Council, evaluating the effectiveness of the measures introduced by this proposal.

### **5.2. Explanatory documents**

The proposed Directive contains a significant number of more extensive legal obligations compared to the existing Directives 91/672/EEC and 96/50/EC. Given this, and the fact that the proposal includes provisions on a number of qualifications not yet covered in a mandatory way by the current legal framework i.e. deck crew members other than boatmasters, experts in the use of liquefied natural gas as a fuel and passengers navigation experts, explanatory documents accompanying the notification of transposition measures will be needed so that measures which the Member States have introduced are clearly identifiable.

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>10</sup>,

Having regard to the opinion of the Committee of the Regions<sup>11</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 91/672/EEC<sup>12</sup> and Council Directive 96/50/EC<sup>13</sup> are the first steps taken towards the harmonisation and recognition of professional qualifications for crew members in inland navigation.
- (2) The requirements for crew members navigating on the Rhine river, who are outside the scope of Directives 91/672/EEC and 96/50/EC, are established by the Central Commission for Navigation on the Rhine (CCNR), pursuant to the Rhine Navigation Personnel Regulation under the Revised Convention for Rhine Navigation.
- (3) Directive 2005/36/EC of the European Parliament and of the Council<sup>14</sup> applies to inland waterway occupations other than boatmasters, who are covered by that Directive. The mutual recognition of diplomas and certificates under Directive 2005/36/EC does not, however, provide an optimised response to regular and frequent cross-border activities of inland waterways occupations.

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<sup>10</sup> OJ C , , p. .

<sup>11</sup> OJ C , , p. .

<sup>12</sup> Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway (OJ L 373, 31.12.1991, p. 29).

<sup>13</sup> Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community (OJ L 235, 17.9.1996, p. 31).

<sup>14</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L. 255, 30. 9.2005, p. 22).



- (4) An evaluation study carried out by the Commission in 2014 highlighted the fact that the limitation of the scope of Directives 91/672/EEC and 96/50/EC to boatmasters, as well as the lack of automatic recognition of boatmasters' certificates issued in accordance with those Directives on the Rhine, greatly hinders the mobility of crew members in inland navigation.
- (5) To facilitate mobility, to ensure the safety of navigation and the protection of human life, it is essential for deck crew members, persons in charge of emergency situations on board passenger vessels and persons involved in the bunkering of liquefied natural gas-fuelled vessels to hold certificates of qualification proving their qualifications. For efficient enforcement, they should carry such certificates while exercising their occupation.
- (6) Boatmasters sailing in circumstances presenting a particular safety hazard should hold a specific authorisation, in particular, for sailing large convoys, sailing liquefied natural gas-fuelled vessels, sailing in conditions of reduced visibility, sailing on waterways with a maritime character or sailing on waterways with specific risks for navigation. In order to obtain such authorisation, boatmasters should be required to demonstrate additional competences.
- (7) For ensuring safety of navigation, Member States should identify waterways with a maritime character, in accordance with harmonised criteria. The competence requirements for navigating on these waterways should be defined at Union level. Without unnecessarily limiting the mobility of boatmasters, when necessary for ensuring safety of navigation, Member States should also have the possibility to identify the waterways entailing specific risks for navigation in accordance with harmonised criteria and procedures, pursuant to this Directive. In such a case, the related competence requirements should be set at Member State level.
- (8) For reasons of cost-effectiveness, holding Union certificates of qualification should not be made compulsory on national inland waterways not linked to the navigable network of another Member State.
- (9) With a view to contributing to the mobility of persons involved in the operation of vessels across the Union and considering that all certificates of qualification, service record books and logbooks issued in accordance with this Directive should comply with minimum standards, Member States should recognise the professional qualifications certified in accordance with this Directive. Consequently the holders of such qualifications should be able to exercise their profession on all Union inland waterways.
- (10) In view of the established cooperation between the Union and the CCNR since 2003 which has led to the establishment of a European Committee for drawing up Standards in Inland Navigation (CESNI), an international body set up under the auspices of the CCNR, and in order to streamline the legal frameworks governing the professional qualifications in Europe, certificates of qualification, service record books and logbooks, issued in accordance with the Rhine Navigation Personnel Regulation under the Revised Convention for Rhine Navigation which lay down requirements that are identical to those of this Directive should be valid on all Union inland waterways. Such documents issued by third countries should be recognised in the Union, subject to reciprocity. To further remove barriers to labour mobility and further streamline the legal frameworks governing the professional qualifications in Europe, any certificate of qualification, service record book or logbook issued by a third country on the basis of requirements which are identical to those laid down in this Directive may also be

recognised on all Union waterways, subject to an assessment by the Commission and subject to recognition by that third-country of documents issued in accordance with the present Directive .

- (11) Directive 2005/36/EC remains applicable for deck crew members exempted from the obligation of holding a Union certificate of qualification issued in accordance with this Directive, as well as for inland waterways qualifications not covered by the present Directive.
- (12) Member States should issue certificates of qualification only to persons that have the minimum levels of competence, the minimum age, the minimum medical fitness and the navigation time required for obtaining a specific qualification.
- (13) To safeguard the mutual recognition of qualifications, the certificates of qualification should be based on the competences necessary for the operation of vessels. Member States should ensure that persons receiving certificates of qualification have the corresponding minimum levels of competence, verified following an appropriate assessment. Such assessments may take the form of an administrative examination or may form part of approved training programmes carried out in accordance with common standards in order to ensure a comparable minimum level of competence in all Member States for various qualifications.
- (14) Due to the responsibility with respect to safety when exercising the profession of boatmaster, sailing with the aid of radar and bunkering liquefied natural gas-fuelled vessels or sailing liquefied natural gas-fuelled vessels, verification through practical examinations on whether the required level of competence has effectively been reached is required. Such practical examinations may be carried out using approved simulators, with a view to further facilitating the evaluation of competence.
- (15) Approval of training programmes is necessary to verify that the programmes comply with common minimum requirements regarding content and organisation. Such compliance allows for eliminating unnecessary barriers to entering the profession by preventing those who already acquired the necessary skills during their vocational training from passing unnecessary additional examination. The existence of approved training programmes may also facilitate the entry of workers with prior experience from other sectors into the profession of inland navigation as they may benefit from dedicated training programmes that take account of their already acquired competences.
- (16) To further facilitate mobility for boatmasters, all Member States should be allowed, where practicable, to assess the necessary competence for addressing specific risks for navigation for all inland waterway stretches in the Union where such risks are identified.
- (17) The navigation time should be verified by means of entries in service record books validated by a Member State. To allow for such verification, Member States should issue service record books and logbooks and ensure that the latter provide a record of the journeys of vessels. Medical fitness of a candidate should be certified by an approved medical practitioner.

- (18) Whenever the measures provided for in this Directive entail the processing of personal data, they shall be carried out in accordance with Union law on the protection of personal data<sup>15</sup>.
- (19) To contribute to an efficient administration with respect to the issuing, renewing and withdrawing certificates of qualification, Member States should designate the competent authorities for implementing this Directive and set up registers for recording data on Union certificates of qualification, service record books and logbooks. In order to facilitate the exchange of information between Member States and with the Commission for the purpose of implementation, enforcement and evaluation of the Directive as well as for statistical purposes, for maintaining safety and for ease of navigation, Member States should report such information, including data on the certificates of qualifications, service record books and logbooks, in a database kept by the Commission.
- (20) Authorities, including in third countries, issuing certificates of qualifications, service record books and logbooks in accordance with rules that are identical to those of this Directive are processing personal data. For the purpose of evaluation of the Directive, for statistical purposes, for maintaining safety, for ease of navigation and in order to facilitate the exchange of information between the authorities involved in the implementation and enforcement of this Directive, these authorities and, where relevant, international organisations that established these identical rules, should also have access to the database kept by the Commission. This access should however be subject to adequate level of data protection, including of personal data.
- (21) With a view to further reducing administrative burden whilst rendering the documents less prone to tampering, the Commission should as a second step, after the adoption of this Directive, examine the possibility of introducing an electronic version of service record books and logbooks, as well as electronic professional cards incorporating Union certificates of qualifications. In doing so, the Commission should take existing technologies in other modes of transport into account, in particular road transport. After conducting an impact assessment including of cost-benefit and of the impacts on the fundamental rights, in particular in relation to the protection of personal data, the Commission should present, if appropriate, a proposal to the European Parliament and the Council.
- (22) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to adopt decisions approving measures proposed by the Member States with respect to requirements for the competence for specific risks on certain stretches of inland waterways.
- (23) The implementing powers relating to the adoption of models for the issuing of Union certificates of qualification, service record books and logbooks and the adoption of decisions for establishing or suspending the recognition of such documents issued by a third country or under an international agreement regulating navigation on a Union

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<sup>15</sup> In particular Regulation (EU) No XXX/2016 (number to be added after formal adoption) of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (reference to OJ to be added after formal adoption) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.01.2001, p. 1).

inland waterway should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>16</sup>.

- (24) In order to provide minimum harmonised standards for the certification of qualifications and to facilitate the exchange of information between Member States and the implementation, monitoring and evaluation of this Directive by the Commission, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission as regards the setting of standards of competence, standards for medical fitness, standards for practical examinations, standards for the approval of simulators and standards defining the characteristics and conditions of use for a database kept by the Commission to host a copy of key data related to Union certificates of qualifications, service record books, logbooks and recognised documents. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (25) Transitional measures should address the problem of national certificates in use, including those issued by the CCNR, for boatmasters, but also for other categories of deck crew members falling in the scope of the Directive. They should safeguard as far as possible entitlements previously granted and aim at providing for reasonable time to skilled crew members to apply for a Union certificate of qualification. They should therefore provide for a period of maximum 10 years in which these certificates may be used on the Union waterways where they were valid before the end of the transposition period and ensure a system of transition to the new rules for all these certificates on the basis of a single EU set of criteria.
- (26) The CESNI which is open to experts from all Member States, draws up standards in the field of inland navigation, including for professional qualifications. The Commission may take into account such standards when empowered to adopt acts in conformity with this Directive.
- (27) Since the objective of this Directive, namely establishing a common framework on the recognition of professional qualifications in inland navigation, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (28) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>17</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

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<sup>16</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>17</sup> OJ C 369, 17.12.2011, p. 14.

(29) Directives 91/672/EEC and 96/50/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

## **CHAPTER 1**

### **SUBJECT MATTER, DEFINITIONS AND SCOPE**

#### *Article 1* *Subject matter*

This Directive lays down the conditions and procedures for the certification of the qualifications of persons involved in the operation of a vessel for the carriage of goods and passengers by inland waterways in the Union, as well as the recognition of such qualifications in the Member States.

#### *Article 2* *Scope*

1. This Directive applies to deck crew members, persons who are involved in the operation of bunkering vessels using liquefied natural gas as fuel and passenger navigation experts of the following vessels on any Union inland waterway:
  - (a) vessels having a length (L) of 20 metres or more;
  - (b) vessels where the length (L), breadth (B) and draught (T) is a volume of 100 cubic metres or more;
  - (c) tugs and pushers intended for:
    - (i) towing or pushing vessels referred to in points (a) and (b),
    - (ii) towing or pushing floating equipment
    - (iii) moving vessels referred to in points (a) and (b) or floating equipment alongside.
  - (d) passenger vessels;
  - (e) self-propelled floating equipment.
2. This Directive does not apply to persons involved in the operation of:
  - (a) recreational craft;
  - (b) ferries not moving independently.

#### *Article 3* *Definitions*

For the purposes of this Directive, the following definitions shall apply:

- (1) 'inland waterway' means a stretch of water not part of the sea, open to navigation;
- (2) 'vessel' means an inland waterway vessel or sea-going ship;

- (3) 'passenger vessel' means a day trip or cabin vessel constructed and equipped to carry more than 12 passengers;
- (4) 'recreational craft' means a vessel other than a passenger vessel, intended only for sport or pleasure;
- (5) 'Union certificate of qualification' means a certificate issued by a competent authority attesting that a person fulfils the requirements under this Directive;
- (6) 'deck crew members' means persons involved in the operation of a vessel navigating on Union inland waterways carrying out tasks related to navigation, cargo handling, stowage, maintenance or repair, with the exception of persons solely assigned to the operation of the engines, electrical and electronic equipment;
- (7) 'passenger navigation expert' means a person competent to take measures in emergency situations on board passenger vessels;
- (8) 'boatmaster' means a deck crew member qualified to sail a vessel on the Member States' inland waterways and who has nautical responsibility for the vessel;
- (9) 'specific risk' means a safety hazard due to particular navigation conditions which require boatmasters to have competences beyond what is expected under the general standards of competence for the management level;
- (10) 'competence' means the proven ability to use knowledge and skills required by the established standards for the proper performance of tasks necessary for the operation of inland waterway vessels;
- (11) 'management level' means the level of responsibility associated with serving as boatmaster and ensuring that all tasks in the operation of a vessel are properly performed;
- (12) 'large convoy' means a pushed convoy composed of the pusher and seven or more barges;
- (13) 'service record book' means a personal register recording details of a crew member's work history, in particular navigation time and journeys carried out;
- (14) 'logbook' means an official record of the journeys made by a vessel;
- (15) 'navigation time' means the time that deck crew members spent aboard during a journey performed by a vessel on inland waterways and validated by the competent authority;
- (16) 'active record book or active logbook' means a record book or logbook which is open for recording data;
- (17) 'competent authority' means any authority or body designated by a Member State with the responsibility for issuing Union certificates of qualification, conducting examinations, issuing other documents or information and taking the necessary decisions;
- (18) 'operational level' means the level of responsibility associated with serving as boatman, as able boatman or as helmsman and maintaining control over the performance of all tasks within his or her designated area of responsibility in accordance with proper procedures and under the direction of a person serving at management level.

## CHAPTER 2

### UNION CERTIFICATES OF QUALIFICATION

#### *Article 4*

#### *Obligation to carry a Union certificate of qualification for deck crew members*

1. Member States shall ensure that deck crew members navigating on Union inland waterways carry a Union certificate of qualification for deck crew members issued in accordance with Article 10 or a certificate recognised in accordance with Articles 9(2) or (3).
2. A Member State may exempt all deck crew members or groups of crew members having a specific qualification operating exclusively on national inland waterways not linked to the navigable network of another Member State from the obligation set out in paragraph 1. That Member State may issue national certificates of qualification for deck crew members under conditions that differ from the general conditions set out in this Directive. The validity of those national certificates of qualification shall be limited to those national inland waterways which are not linked to the navigable network of another Member State.
3. By derogation from paragraph 1, certificates of qualification for deck crew members other than boatmasters, issued in accordance with Directive 2008/106/EC of the European Parliament and of the Council<sup>18</sup>, shall be valid on seagoing vessels operating on inland waterways.

#### *Article 5*

#### *Obligation to carry a Union certificate of qualification for specific operations*

1. Member States shall ensure that passenger navigation experts and persons who are involved in the operation of bunkering vessels using liquefied natural gas as fuel carry a Union certificate of qualification issued in accordance with Article 10 or a certificate recognised in accordance with Article 9(2) or (3).
2. A Member State may exempt all persons referred to in paragraph 1, or groups of such persons having a specific qualification, operating exclusively on national inland waterways not linked to the navigable network of another Member State from the obligation set out in paragraph 1. That Member State may issue national certificates of qualification which may be obtained under conditions that differ from the general conditions set out in this Directive. The validity of those national certificates of qualification shall be limited to those national inland waterways which are not linked to the navigable network of another Member State.
3. By derogation from paragraph 1, certificates of qualification for persons referred to in that paragraph, issued in accordance with Directive 2008/106/EC shall be valid on seagoing vessels operating on inland waterways.

<sup>18</sup>

Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).

## *Article 6*

### *Obligation for boatmasters to hold specific authorisations*

Member States shall ensure that boatmasters hold specific authorisations issued in accordance with Article 11 when:

- (a) sailing on inland waterways with a maritime character pursuant to Article 7;
- (b) sailing on inland waterways stretches with specific risks pursuant to Article 8;
- (c) sailing with the aid of radar;
- (d) sailing vessels using liquefied natural gas as fuel;
- (e) sailing large convoys.

## *Article 7*

### *Classification of inland waterways with a maritime character*

1. Member States shall classify a stretch of inland waterway in their territory as an inland waterway with a maritime character when one of the following criteria is met:
  - (a) International Regulations for Preventing Collisions at Sea are applicable;
  - (b) the buoys and signs are according to the maritime system;
  - (c) terrestrial navigation is necessary; or
  - (d) maritime equipment which requires special knowledge for its operation is necessary for navigation.
2. Member States shall notify the Commission of the classification of a specific stretch of inland waterways on their territory as an inland waterway with a maritime character. The notification to the Commission shall be accompanied by a justification based on those criteria. The Commission shall publish the list of notified inland waterways with a maritime character.

## *Article 8*

### *Inland waterway stretches with specific risks*

1. When necessary for ensuring safety of navigation, Member States may identify stretches of inland waterways with specific risks, except for inland waterways of a maritime character referred to in Article 7, where such risks are due to:
  - (a) frequently changing stream patterns and speed;
  - (b) the absence of appropriate Fairway Information Services on inland waterways or suitable charts combined with the hydro-morphological characteristics of the inland waterway;
  - (c) the presence of a specific local traffic regulation not part of the European Code for Navigation on Inland Waterways justified by specific hydro-morphological features.
2. Member States shall notify the Commission of the measures they intend to adopt pursuant to paragraph 1 of this Article and Article 18, together with the reasoning on which the measure is based.

The Member State shall not adopt the measure for six months from the date of notification.



3. Within a period of six months from the notification, the Commission shall issue an implementing decision approving the proposed measures if they are in accordance with this Article and with Article 18, or, if it is not the case, requiring the Member State to amend or not adopt the proposed measure.
4. The measures adopted by the Member States in accordance with this Article shall be communicated to the Commission.

The Commission shall publish the measures adopted by the Member States, together with the reasoning referred to in paragraph 2.
5. Where stretches of inland waterways referred to in paragraph 1 are situated along the border between two or more Member States, the Member States concerned shall consult one another and notify the Commission jointly.

#### *Article 9* *Recognition*

1. Any Union certificate of qualification referred to in Articles 4 and 5, as well as service record books and logbooks referred to in Article 16 issued by the competent authorities in accordance with this Directive, shall be valid on all Union inland waterways.
2. Any certificate of qualification, service record book or logbook issued in accordance with the Rhine Navigation Personnel Regulation under the Revised Convention for Rhine Navigation which lay down requirements that are identical to those of this Directive shall be valid on all Union inland waterways.

When such certificates, service record books and logbooks are issued by a third country they shall be valid on all Union inland waterways only if that third country recognises within its jurisdiction Union documents issued pursuant to the present Directive.

3. Without prejudice to paragraph 2, any certificate of qualification, service record book or logbook issued in accordance with national rules of a third country stipulating requirements that are identical to those laid down pursuant to this Directive shall be valid on all Union inland waterways, subject to the procedure and the conditions set out in paragraphs 4 and 5 of this Article.
4. Any third country may submit to the Commission a request for recognition of certificates, service record books or logbooks issued by its authorities. The request shall be accompanied by all information necessary for determining that the issuing of these documents is subject to requirements identical to those laid down pursuant to this Directive.
5. Upon receiving the request referred to in paragraph 4, the Commission shall carry out an assessment of the certification systems in the third country for which the request for recognition was submitted, in order to determine whether the issuing of these documents is subject to requirements identical to those laid down in this Directive.

If this requirement is met, the Commission shall adopt an implementing act on the recognition in the Union of the certificates, record books or logbooks issued by that third country, subject to that third country recognising within its jurisdiction Union documents issued pursuant to the present Directive.

When adopting this implementing act, the Commission shall specify for which documents, referred to in paragraph 4 of this Article, the recognition applies.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29(2).

6. If the Commission determines that the requirements referred to in paragraphs 2 or 4 are no longer met, it shall adopt an implementing act suspending the validity on all Union inland waterways of the certificates of qualification, service record books and logbooks issued in accordance with these requirements.

The Commission may at any time terminate the suspension, if the identified shortcomings as regards the standards applied have been solved.

7. The Commission shall publish the list of third countries referred to in paragraph 3, together with the documents which are recognised as valid on all Union inland waterways.

## **CHAPTER 3**

### **CERTIFICATION OF PROFESSIONAL QUALIFICATIONS**

#### **Section I**

##### **Procedure for issuing Union certificates of qualification and specific authorisations**

###### *Article 10*

###### *Issuing and validity of Union certificates of qualification*

1. Member States shall ensure that applicants for Union certificates of qualification for deck crew members and for specific operations provide satisfactory documentary evidence:
  - (a) of their identity;
  - (b) that they meet the minimum requirements laid down in Annex I on age, competence, administrative compliance and navigation time corresponding to the qualification applied for;
  - (c) that they meet the standards for medical fitness in accordance with Article 21, where applicable.
2. Member States shall verify the authenticity and validity of the documents provided.
3. The Commission shall adopt implementing acts establishing models for Union certificates of qualification. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2). When adopting those acts the Commission may make a reference to standards established by an international body.
4. The validity of the Union certificate of qualification for deck crew members shall be limited to the date of the next medical examination required pursuant to Article 21
5. Without prejudice to the limitation referred to in paragraph 4, Union certificates of qualification for boatmasters shall be valid up to a maximum of 10 years.

6. Union certificates of qualification for specific operations shall be valid up to a maximum of five years.

### *Article 11*

#### *Issuing specific authorisations for boatmasters*

1. Member States shall ensure that applicants for specific authorisations referred to in Article 6, other than for that provided in Article 6(b), provide satisfactory documentary evidence:
  - (a) of their identity;
  - (b) that they meet the minimum requirements laid down in Annex I on age, competence, administrative compliance and navigation time corresponding to the specific authorisation applied for.
2. For specific authorisations for sailing on inland waterways stretches with specific risks required pursuant to Article 6(b), applicants shall provide satisfactory documentary evidence to the competent authorities of the Member States referred to in Article 18(2):
  - (a) of their identity;
  - (b) that they meet the requirements for the competence for specific risks for the specific stretch for which the authorisation is required, established in accordance with Article 18;
  - (c) that they hold a Union certificate of qualification for a boatmaster or a certificate recognised in application of Article 9(2) and (3) or that they meet the minimum requirements for Union certificates of qualifications for boatmasters provided for by this Directive.
3. Member States shall verify the authenticity and validity of the documents provided.
4. The competent authority issuing Union certificates of qualification to boatmasters shall specify in the certificate any specific authorisation issued pursuant to Article 6, in accordance with the model referred to in Article 10(3).
5. By derogation from paragraph 4, the specific authorisation referred to in Article 6 (d) shall be issued as a specific Union certificate of qualification, in accordance with the model referred to in Article 10(3).

### *Article 12*

#### *Renewal of Union certificates of qualification*

Upon expiry of the validity of a Union certificate of qualification, Member States shall, upon request, renew the certificate provided that:

- (a) for Union certificate of qualification for crew members, satisfactory documentary evidence referred to in Article 10(1)(a) and (c) is submitted;
- (b) for Union certificates of qualification for specific operations, the satisfactory documentary evidence referred to in Article 10(1)(a) and (b) is submitted.

### *Article 13*

#### *Withdrawing Union certificates of qualification or specific authorisations*

When there are indications that the requirements for certificates of qualifications or specific authorisations are no longer met, the Member States shall undertake all necessary assessments and, where appropriate, withdraw those certificates.

## **Section II**

### **Competences**

#### *Article 14*

##### *Requirements for competences*

1. Member States shall ensure that persons referred to in Articles 4, 5 and 6 have the necessary competences for the safe operation of a vessel as laid down in Article 15.
2. By derogation from paragraph 1, assessment of the competence for specific risks referred to in Article 6 (b) shall be demonstrated in accordance with Article 18.

#### *Article 15*

##### *Assessment of competences*

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to lay down the standards for competences and corresponding knowledge and skills in compliance with the essential requirements set out in Annex II.
2. Persons applying for the documents referred to in Articles 4, 5 and 6 shall demonstrate that they meet the standards of competence referred to paragraph 1 by passing an examination organised:
  - (a) under the responsibility of an administrative authority in accordance with Article 16 or;
  - (b) as part of a training programme approved in accordance with Article 17.
3. The demonstration of compliance with the standards of competence shall include a practical examination for obtaining:
  - (a) the Union certificate of qualification for boatmasters;
  - (b) the specific authorisation for sailing with the aid of radar as referred to in Article 6(c);
  - (c) the Union certificate of qualification for experts in the use of liquefied gas as fuel.

To obtain documents referred to under points (a) and (b), practical examinations may take place on board a vessel or on a simulator compliant with Article 19. For point (c), practical examinations may take place on board a vessel or an appropriate shore installation.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to lay down standards for practical examinations referred to in paragraph 3 specifying the specific competences and the conditions to be tested during the practical examinations, as well as the minimum requirements for the vessels on which a practical examination may be taken.

## *Article 16*

### *Examination under the responsibility of an administrative authority*

Member States shall ensure that examinations referred to in Article 15(2)(a) are organised under their responsibility. They shall ensure that those examinations are conducted by examiners qualified to assess the competences and the corresponding knowledge and skills referred to in Article 15(1).

## *Article 17*

### *Approval of training programmes*

1. Training programmes leading to diplomas or certificates demonstrating compliance with the standards of competence referred to in Article 15(1) shall be approved by the competent authorities of the Member States in whose territory the relevant education or training institute is established.
2. Member States may approve the training programmes referred to in paragraph 1 only if:
  - (a) the training objectives, learning content, methods, media delivery, procedures and course material are properly documented and allow applicants to achieve the standards of competence referred to in Article 15(1);
  - (b) the programmes for the assessment of the relevant competences are conducted by qualified persons having in-depth knowledge of the training programme;
  - (c) an examination verifying compliance with the standards of competence referred to in Article 15(1) is carried out by qualified examiners.
3. Member States shall notify the list of the approved training programmes to the Commission, who will publish this information. The list shall indicate the name of the training programme, the titles of diplomas or certificates awarded, the body awarding the diploma or certificates, the year of entry into force of the approval as well as the relevant qualification and any specific authorisations to which the diploma or certificate gives access.

## *Article 18*

### *Assessment of competence for specific risks*

1. The Member States that identify inland waterways stretches with specific risks in the meaning of Article 8(1), shall define the additional competence required from boatmasters navigating on these stretches and the means to prove that such requirements are met.

Those means may consist of a limited number of journeys to be carried out on the stretch concerned, a simulator examination, a multiple choice examination or a combination thereof.

When applying this paragraph, the Member States shall apply objective, transparent, non-discriminatory and proportionate criteria.
2. These Member States shall put in place the procedures for assessing applicants' competence for specific risks and shall make tools publicly available to facilitate boatmasters with a Union certificate of qualification in acquiring the competence for specific risks.
3. Any Member State may carry out assessments of applicants' competence for specific risks for stretches located in another Member State based on the requirements

established in accordance with paragraph 1. Upon request and in case of examination by means of multiple choice exams or simulators, Member States referred to in paragraph 1 shall provide other Member States with the available tools allowing them to carry out that assessment.

#### *Article 19*

##### *Use of simulators*

1. Simulators used for the assessment of competences shall be subject to an approval by Member States. That approval shall be issued upon request when it is demonstrated that the device complies with the standards for simulators established by delegated acts referred to in paragraph 2. The approval shall specify which particular assessment of competence is authorised as regards the simulator.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to lay down standards for the approval of simulators, specifying the minimum functional and technical requirements and administrative procedures in this regard, with the objective of ensuring that the simulators used for an assessment of competences are designed in such a way as to allow for the verification of the competences as prescribed under the standards for practical examinations referred to in Article 15(3).
3. Member States shall notify the list of the approved simulators to the Commission, who will publish this information.

### **Section III**

#### **Navigation time and medical fitness**

#### *Article 20*

##### *Service record book and logbook*

1. Navigation time, as referred to in Article 10(1)(b) and journeys carried out referred to in Article 18(1) shall be recorded in a service record book referred to in paragraph 5 or a service record book recognised pursuant to Article 9(2) or (3).
2. Upon request from any deck crew member, Member States shall validate data provided by the boatmaster following the verification of the authenticity and validity of any necessary documentary evidence, including the logbook referred to in paragraph 4 of this Article.
3. Data regarding navigation time and journeys carried out shall be valid for a period of 15 months, pending validation by a Member State. Where electronic tools are put in place, including electronic service record books and electronic logbooks associated with appropriate procedures for safeguarding the authenticity of the documents, the corresponding data may be considered validated without additional procedures.

Navigation time may have been acquired on any of the Member States' inland waterways. In the case of inland waterways whose courses are not fully within Union territory, the navigation time acquired on all sections located within and outside of those watercourses shall be taken into consideration.
4. Member States shall ensure that journeys of vessels referred to in Article 2(1) are recorded in a logbook referred to in paragraph 5 or a logbook recognised pursuant to Articles 9(2) or (3).

The Commission shall adopt implementing acts establishing models for service record books and logbooks. Those implementing acts shall be adopted in accordance with the advisory procedure pursuant to Article 30(2), taking into account the information required for the implementation of this Directive as regards the identification of the person, their navigation time and the journeys carried out. When adopting those models, the Commission shall take into consideration that the logbook is also used for the implementation of Council Directive 2014/112/EU<sup>19</sup> for verifying manning requirements and recording journeys of the vessels and may make a reference to standards established by an international body.

5. Member States shall ensure that crew members hold a single active service record book and that vessels hold a single active logbook.

*Article 21*  
*Medical fitness*

1. Persons referred to in Article 4(1) and 5(1) shall hold a valid medical certificate issued by a medical practitioner recognised by the competent authority, based on the successful completion of a medical fitness examination.

Member States shall determine which medical practitioners may issue such medical certificates.

2. Medical certificates shall be provided to the competent authority:
  - (a) for issuing applicant's first Union certificate of qualification;
  - (b) for issuing Union certificates of qualification for boatmasters;
  - (c) for the renewal of a Union certificate of qualification in case the conditions specified in paragraph 3 of this Article are met.

Medical certificates issued for the purpose of obtaining a Union certificate of qualification shall be dated no earlier than three months before the date of application for a Union certificate of qualification.

3. On reaching the age of 60, the holder of a Union certificate of qualification shall successfully complete a medical fitness examination in the three months thereafter and shall subsequently successfully complete this examination every five years thereafter. On reaching the age of 70, the holder shall successfully complete this examination every two years thereafter.
4. Employers, boatmasters and Member States authorities shall require a deck crew member to report for a medical examination, whenever there are objective indications that the medical fitness requirements referred to in paragraph 6 of this Article may be no longer fulfilled.
5. Where medical fitness cannot be fully demonstrated, mitigation measures that provide equivalent navigation safety may be required or restrictions imposed. In that case, these mitigation measures and restrictions related to medical fitness shall be mentioned in the Union certificate of qualification in accordance with the model referred to in Article 10(3).

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<sup>19</sup> Council Directive 2014/112/EU of 19 December 2014 implementing the European Agreement concerning certain aspects of the organisation of working time in inland waterway transport, concluded by the European Barge Union (EBU), the European Skippers Organisation (ESO) and the European Transport Workers' Federation (ETF) (OJ L 367, 23.12.2014, p. 86).

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 and on the basis of the essential requirements for medical fitness referred to in Annex III to lay down the standards for medical fitness specifying the requirements with regards to medical fitness, in particular with regard to the tests that medical practitioners must carry out, the criteria they must apply to determine fitness for work and the list of restrictions and mitigation measures.

## **CHAPTER 4**

### **ADMINISTRATIVE PROVISIONS**

#### *Article 22*

##### *Protection of personal data*

1. Any processing of personal data by the Member States provided for in this Directive shall be carried out in accordance with EU law on the protection of personal data, in particular Regulation (EU) No XXX/2016 (number to be added after formal adoption) of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)<sup>20</sup>.
2. Any processing of personal data by the European Commission provided for in this Directive shall be carried out in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>21</sup>.
3. Personal data may be processed only for the purposes of:
  - (a) implementation, enforcement and evaluation of this Directive;
  - (b) exchange of information between the authorities that have access to the database referred to in Article 23 and the Commission;
  - (c) producing statistics.

Anonymised information derived from such data may be used to support policies to promote inland waterway transport.

4. Member States shall ensure that persons referred to in Articles 4 and 5 whose personal data, and particularly their health data, are processed in the registers referred to in Article 23(1) and the database referred to in Article 23(2) are informed ex ante. They shall be granted access to the personal data concerning them and be provided with a copy of that data on request at any time.

#### *Article 23*

##### *Registers*

1. To contribute to an efficient administration with respect to the issuing, renewing and withdrawing certificates of qualification, Member States shall keep registers for all Union certificates of qualification, service record books and logbooks issued under their authority in accordance with this Directive and, where relevant, for documents

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<sup>20</sup>

(reference to OJ to be added after formal adoption)

<sup>21</sup>

OJ L 8, 12.01.2001, p. 1



recognised pursuant to Article 9(2), which are issued, renewed, expired, suspended, withdrawn or reported lost, stolen or destroyed.

For Union certificates of qualifications, registers shall include the data appearing on the Union certificates of qualifications and the issuing authority.

For service record books, registers shall include the holder's identification number, the service record book identification number, the name of the holder, the date of issuance and the issuing authority.

For logbooks, registers shall include the name of the vessel, the European Number of Identification or European Vessel Identification Number (ENI number), the logbook identification number, the date of issuance and the issuing authority.

To further facilitate the exchange of information between Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 29 to complement the information in the registers for service record books and logbooks with other information required by the models of service record books and logbooks adopted pursuant to Article 20(5).

2. For the purpose of implementation, enforcement and evaluation of this Directive, for maintaining safety, for ease of navigation as well as for statistical purposes and in order to facilitate the exchange of information between the authorities implementing this Directive, Member States shall record reliably and without delay in a database kept by the Commission data related to the certificates of qualifications, service record books and logbooks referred to in paragraph 1.

The Commission shall be empowered to adopt delegated acts in accordance with Article 29 concerning the standards laying down the characteristics and conditions of use of this database, in particular to specify:

- (a) instructions for encoding data into the database;
  - (b) the access rights of the users, where appropriate differentiated according to the type of users, the type of access and the purpose for which the data is used;
  - (c) the maximum duration of data retention in accordance with paragraph 3, differentiated, where appropriate, according to the type of document;
  - (d) instructions regarding the functioning of the database and its interaction with the registers referred to in paragraph 1.
3. Any personal data included in the registers referred to in paragraph 1 and the database referred to in paragraph 2 shall be stored for no longer than is necessary for the purposes for which the data were collected or for which they are further processed pursuant to this Directive. Once the information is no longer needed for these purposes, such personal data shall be destroyed.
4. Commission may provide access to the database to an authority of a third country or to an international organisation, in so far as this is necessary for the purposes referred to in paragraph 2, provided the requirements of Article 9 of Regulation (EC) No 45/2001 are fulfilled and only on a case-by-case basis. The Commission shall ensure that the third country or international organisation does not transfer the data to another third country or international organisation unless it is given express written authorisation and complies with the conditions specified by the Commission.

*Article 24*  
*Competent authorities*

1. Member States shall designate the competent authorities which will:
  - (a) organise and supervise the examinations referred to in Article 16;
  - (b) approve the training programmes referred to in Article 17;
  - (c) issue the certificates and specific authorisations referred to in Articles 4, 5 and 6, as well as the service record books and the logbooks referred to in Article 20;
  - (d) keep the registers referred to in Article 23;
  - (e) detect and combat fraud and other unlawful practices referred to in Article 27.
2. Member States shall notify the Commission all competent authorities within their territory referred to in paragraph 1 of this Article. The Commission shall publish this information.

*Article 25*  
*Monitoring*

Member States shall ensure that:

- (a) all activities associated with training, assessment of competence, issuing and updating of Union certificates of qualification, service record books and logbooks carried out by governmental and non-governmental bodies under their authority are continuously monitored through a quality standards system to ensure the achievement of the objectives provided in this Directive;
- (b) training objectives and related standards of competence to be achieved are clearly defined and identify the levels of knowledge and skills to be assessed and examined in accordance with this Directive;
- (c) the fields of application of the quality standards cover the issuing, renewing, replacing and withdrawing of Union certificates of qualifications, service record books and logbooks, all training courses and programmes, examinations and assessments carried out by or under the authority of each Member State and the qualifications and experience required of trainers and examiners, having regard to the policies, systems, controls and internal quality-assurance reviews established to ensure achievement of the defined objectives.

*Article 26*  
*Evaluation*

1. Member States shall ensure that the competence acquisition and assessment activities, and the administration of Union certificates of qualifications, services record books and logbooks, are evaluated at intervals of no more than five years by independent bodies.
2. The results of those independent assessments shall be duly documented and brought to the attention of the competent authorities concerned. If necessary, Member States shall take appropriate measures to remedy any shortcomings identified by the independent assessment.

*Article 27*  
*Prevention of fraud and other unlawful practices*

1. Member States shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving Union certificates of qualification, service record books, logbooks, medical certificates and registers provided for in this Directive.
2. Member States shall exchange information with the competent authorities of other Member States concerning the certification of persons involved in the operation of a vessel.

*Article 28*  
*Penalties*

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [*date for transposition of the Directive*] at the latest and shall notify it without delay of any subsequent amendment affecting them.

## CHAPTER 5

### FINAL PROVISIONS

*Article 29*  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 15(1) and (4), Articles 19, 21 and 23 (1) and (2) shall be conferred on the Commission for an indeterminate period of time from (\*entry into force).
3. The delegation of power referred to in this Article may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months from notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

6. When exercising its power of delegation referred to in Article 15(1) and (4), Articles 19, 21 and Article 23(1) and (2) the Commission may adopt delegated acts which make a reference to standards established by an international body.
7. The Commission may designate a body for the purpose of receiving notifications and for making available information to the public provided for in this Directive.

*Article 30*  
*Committee*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. References to the committee set up pursuant to Article 7 of Directive 91/672/EEC, which is repealed by this Directive, shall be construed as references to the committee set up by this Directive.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. If the committee's opinion is to be obtained by written procedure, its chair may decide to terminate the procedure without result within the time-limit for delivery of the opinion.

*Article 31*  
*Review*

1. The Commission shall evaluate this Directive together with the implementing and delegated acts referred to in Articles 8, 10, 20 and 29 and submit the results of the evaluation to the European Parliament and the Council no later than seven years after the date referred to in Article 33(1).
2. By [two years before the date indicated in paragraph 1], each Member State shall make available to the Commission the information needed for the purposes of monitoring the implementation and evaluation of the Directive, in accordance with guidelines provided by the Commission in consultation with Member States as regards information collection, format and content.

*Article 32*  
*Phasing-in*

1. Within one year of the entry into force of this Directive, the Commission shall gradually adopt delegated acts setting up:
  - (a) the standards for the characteristics and conditions of use of the database provided for in Article 23;
  - (b) the standards of competences referred to in Article 15(1);
  - (c) the standards for medical fitness provided for in Article 21
  - (d) the models provided for in Articles 10 and 20;
  - (e) the standards for practical examinations provided for in Article 15(3);
  - (f) the standards for simulators approval provided for in Article 19.
2. At the latest two years after the adoption of the parameters of the database set out in paragraph 1(a) of this Article, the database provided for in Article 23 shall be set up.

### *Article 33*

#### *Repeal*

Directives 96/50/EC and 91/672/EEC are repealed with effect from [insert here the date following the end of the transposition period].

### *Article 34*

#### *Transitional provisions*

1. Boatmasters' certificates issued in accordance with Directive 96/50/EC as well as Rhine navigation licences referred to in Article 1(5) of that Directive, issued prior to the date following the end of the transposition period referred to in Article 35 of this Directive, shall remain valid on the Union waterways where they were valid before this date for a maximum of 10 years after that date. Before the expiry of validity, the Member State that issued those documents shall issue a Union certificate of qualification to boatmasters holding such certificates in accordance with the model prescribed by this Directive or a certificate in application of Article 9(2) of this Directive, under the conditions that they provide satisfactory documentary evidence as referred to in Article 10(1)(a) and (c) of this Directive and:
  - (a) that the legislation on the basis of which their certificate was issued requires a minimum of 720 days of navigation time as a condition for obtaining a boatmaster certificate valid on all Union waterways; or
  - (b) where the legislation, on the basis of which their certificate was issued, requires less than 720 days of navigation time as a condition for obtaining a boatmaster certificate valid on all Union waterways, that the boatmaster provides proof, by means of a service record book, of navigation time equivalent to the difference between those 720 days and the experience required under the legislation on the basis of which the certificate was issued.
2. When issuing Union certificates of qualification in accordance with paragraph 1 of this Article, Member States shall safeguard, as far as possible, entitlements previously granted in particular as regards the specific authorisations referred to in Article 6.
3. Crew members other than boatmasters holding a certificate of qualification issued by a Member State prior to the date following the end of the transposition period referred to in Article 35 of this Directive or holding a qualification recognised in one or more Member States may still rely on that certificate or qualification for a maximum of 10 years after that date. During this period, crew members other than boatmasters may continue to rely on Directive 2005/36/EC for the recognition of their qualification by other Member States' authorities. Before the expiry of this period, they may apply for a Union certificate of qualification or a certificate in application of Article 9(2) to a competent authority issuing such certificates, on condition that they provide satisfactory evidence as referred to in Article 10(1) (a) and (c) of this Directive and provide proof, by means of a service record book, of the following navigation time:
  - (a) for the Union certificate of qualification for a boatman: 540 days of navigation time including at least 180 days were in inland navigation;
  - (b) for the Union certificate of qualification for an able boatman: 900 days including at least 540 days were in inland navigation;

- (c) for the Union certificate of qualification for a helmsman: 1080 days including at least 720 days were in inland navigation.
4. Service record books and logbooks issued prior to the date following the end of the transposition period referred to in Article 35 in accordance with rules other than those set out by this Directive may remain active for a maximum of 10 years after the date following the end of the transposition period referred to in Article 35.

*Article 35*  
*Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [3 years after the entry into force] 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. 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 36*  
*Entry into force*

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

*Article 37*  
*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*