

GUIDE TO POSSIBLE DEROGATIONS FROM TECHNICAL REQUIREMENTS OF THE ES-TRIN FOR TRADITIONAL CRAFT

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For each technical requirement of the ES-TRIN with which a craft does not comply, the flowchart presents the sequence of eventualities that might give grounds for considering a derogation.

Specific use and characteristics: is the craft a sailing vessel? Is it intended for recreational purposes? Or for transporting a maximum of 12 passengers?

Certain technical requirements may be reduced depending on the size and use made of the vessel. See Chapters 19 to 26 of the ES-TRIN, in particular Articles 19.15, 20.02 and 26.01.

THEN

Zones of operation: are derogations envisaged concerning the vessel's area of operation?

Certain technical requirements may be reduced depending on the area of operation. See Articles 23 and 24 of Directive (EU) 2016/1629. Such reductions are precluded on the Rhine.

THEN

Grandfathering: Can the craft benefit from transitional provisions?

There are numerous transitional provisions in Chapters 32 and 33 of the ES-TRIN. **For those craft that navigate exclusively outside the Rhine**, it is also possible to derogate from certain technical rules if this does not pose a manifest danger. See Article 29 of Directive (EU) 2016/1629. The craft will however need to comply with the technical requirements:

- in the event of the parts in question being converted or replaced and
- upon expiry of the transitional provisions.

THEN

New derogation introduced by the ES-TRIN for traditional craft.

Demonstration purpose: does the traditional craft embark passengers only when it is moored to the quay?

The inspection body may issue the traditional vessel with an inland navigation vessel certificate, including the "traditional craft" Annex, even where it fails to comply with all the technical requirements of the ES-TRIN. The passengers may only stay on board when

- the craft is securely moored and
- freely-accessible machines and mechanically-driven equipment are not in operation.

If

- the vessel is under way or
- freely-accessible machines and mechanically-driven equipment are in operation

only the crew or persons whose official business requires them to be on board shall be permitted.

THEN

Recommendation:

There is a procedure whereby consideration of a vessel's examination of technical requirements can be referred to the European or Rhine level for the granting of **one or multiple technical derogations**. See Article 25 of Directive (EU) 2016/1629 and 2.20 of the RVIR. This procedure could also be applied to embark passengers on board of a traditional craft.

EXPLANATORY NOTES

There are several cases for which derogations or reductions of technical requirements of the ES-TRIN are applicable.

New provisions solely for traditional craft are included in Chapter 24 of the ES-TRIN. To benefit from these possible derogations, the craft must be recognised as traditional pursuant to Article 24.02. However these new possible derogations do not allow passengers when under way or when machines are operating, except via a recommendation of the European Commission or the CCNR. This recommendation is an individual derogation for a craft delivered in accordance with Article 25 of Directive (EU) 2016/1629 or Article 2.20 of the RVIR.

The flowchart steps are shown below.

Traditional craft use and specific characteristics:

First of all it should be recalled that the ES-TRIN does not apply to all craft because of the scope of the respective regulatory frameworks (RVIR and Directive). Traditional craft having a length of under 20 metres, for which $L \cdot B \cdot T$ is a volume of under 100 m³, which carries up to 12 passengers is not a priori subject to it, along with sea-going vessels, subject to the terms and conditions set out in Article 2 of Directive (EU) 2016/1629 or Article 1.05 of the RVIR.

The owner of a vessel who wishes to operate his vessel as a traditional craft or who has difficulties in complying with the provisions of the ES-TRIN for his craft and who therefore seeks solutions for the operation of his craft does not necessarily have to do so in accordance with Chapter 24. For example, a series of derogations which may affect traditional craft are established for passenger vessels, depending on their size and the number of passengers, in Article 19.15 of the ES-TRIN, and may be sufficient to achieve the intended objective.

Similarly, derogations are established for passenger sailing vessels depending on their size and the number of passengers, in Article 20.02 of the ES-TRIN.

Another possibility is the use of the vessel for recreational purposes. The craft is then subject, among others, to technical provisions of Chapter 26.01 of the ES-TRIN.

Traditional craft zones of operation

Where the traditional craft only operates in zone 3 or 4, it may benefit from the provisions of Article 23(4), in relation with Annex IV, of Directive (EU) 2016/1629. These provisions allow Member States to apply reduced technical requirements in these zones. Moreover, Article 4.07 of the ES-TRIN includes uniform requirements for safety clearance and freeboard of craft operating in zone 4 only.

Member States can also grant derogations to craft with a water displacement of less than 100 m³, and which were laid down prior to 1950, or to craft operating on inland waterways that are not interconnected, or to those that are only navigating in a geographically limited area of one EU Member State, in accordance with Article 24 of Directive (EU) 2016/1629.

Note: All derogations in this part do not apply on the Rhine.

Grandfathering of the traditional craft

The owner of a vessel that intends to register its vessel as a traditional craft could also verify whether the legitimate use of one of the following transitional provisions achieves the intended purpose.

1. Transitional provisions according to the ES-TRIN

A series of transitional provisions were established for vessels that were already in service (see Chapters 32 and 33).

2. Other derogations according to Article 29 of Directive (EU) 2016/1629

Under certain conditions that are specific for every Member State, vessels that did not come under Directive 82/714/EEC and operated only outside the Rhine, in particular passenger vessels (including sailing passenger vessels) and floating equipment, may qualify for other derogations from the technical requirements where these do not constitute manifest dangers, even where these derogations are not covered by the aforementioned transitional provisions.

“Any failure to meet the technical requirements referred to in Annexes II and V shall be specified in the Union inland navigation certificate. Provided that the competent authorities consider that these shortcomings do not constitute a manifest danger, the craft referred to in paragraph 1 of this article may continue to operate until such time as those components or areas of the craft which have been certified as not meeting those requirements are replaced or altered, after which those components or areas shall meet the technical requirements of Annexes II and V.”

Note: Transitional provisions according to Article 29 of Directive (EU) 2016/1629 do not apply on the Rhine.

Demonstration purpose - New possible derogation introduced by Chapter 24 of the ES-TRIN

In addition to all the possible derogations that already existed in the regulatory frameworks, Chapter 24 of the ES-TRIN introduces a new one, applicable to traditional craft only.

To benefit therefrom, the historical interest of the vessel must have first been certified by a competent expert or body and the inspection request application must be accompanied by the documentation provided for in Article 24.02(2). In particular, the safety concept must be defined.

The inspection body may then award an inland navigation vessel certificate (including the “traditional craft” Annex pursuant to the model of Annex 3 of the ES-TRIN) that derogates from the technical requirements of the ES-TRIN. However, only the crew or persons who are on official business are permitted to be on board the traditional craft while under way or its accessible machinery is operating or while freely-accessible machines and mechanically-driven equipment are in operation. This provision for operation also applies to stationary craft.

Recommendations

According to Article 2.20 of the RVIR or Article 25 of Directive (EU) 2016/1629, a CCNR or EU Member State may request the relevant international bodies to issue a recommendation, namely an individual derogation for a craft. This recommendation may permit passengers to be on board while the traditional craft is underway or while freely-accessible machines and mechanically-driven equipment are in operation.

An additional option detailed in Article 2.20(2) of the RVIR and Article 26 of Directive (EU) 2016/1629, allows derogation from the technical requirements even after the transitional provisions have expired, if modifying craft to comply with these requirements would incur a disproportionate cost. This option can also be applied based on a recommendation.
