

LEAFLET ON DELIBERATION ON DEROGATIONS AND EQUIVALENCES OF TECHNICAL REQUIREMENTS OF THE ES-TRIN FOR SPECIFIC CRAFT

March 2019



European Committee for drawing up
Standards in the field of Inland Navigation

Leaflet on deliberation on derogations and equivalences of technical requirements of the ES-TRIN for specific craft

Inland navigation vessel certificate

Craft operating on the Rhine and EU waterways must carry either a Rhine vessel inspection certificate or a Union certificate for inland navigation vessels. Both certificates are issued by the national competent authorities and confirm the full compliance of the vessel with the technical requirements of the ES-TRIN. The objective of these requirements is to guarantee a high level of safety in inland navigation, protect the environment and people on board.

Possibilities for international derogations to the technical requirements

The CCNR and EU¹ legal frameworks allow derogations to the technical requirements of the ES-TRIN in justified cases:

- to encourage innovation and the use of new technologies in inland navigation;
- when the technical requirements are technically difficult to apply or where their application might entail disproportionate costs (hardship clause).

In both cases, the ship owner must initiate the derogation request from the provisions of the technical standard ES-TRIN before the national competent authority. The competent authority examines the application and decides, together with the shipowner, whether the vessel should receive a Rhine certificate or Union certificate. Depending on this decision, the relevant member state applies to the CCNR or CESNI Committee for approval to derogate from the ES-TRIN. The derogation is approved by the inspection body based

- either on an implementing act by the European Commission (EC) subsequent to the CESNI Committee's opinion or
- or on the CCNR's recommendation.

For series of vessels with the same derogations from the ES-TRIN, each vessel will need its own application for approval for derogation. Following approval by the CCNR or EC the specific derogations are entered in the Rhine certificate or Union certificate by the competent national authority upon issue.

Moreover, a register of approved derogations granted by the CCNR² since 1996 is available on its website. The approval of a derogation by the CCNR it is sometimes referred to as "recommendation".

Advantages of an approval of derogation at CCNR or European Union level

Granting an international approval of derogation is the usual way for innovative projects, such as vessels using alternative fuels. This ensures the safety and ease of navigational traffic as an internationally recognised high-level notwithstanding derogating requirements. The international validity of the approval of derogation enables the owner to operate his vessel on international waterways. These are appropriate prerequisites for project sponsors wishing to introduce new technology at European level.

¹ See Article 2.20 RVIR, see Articles 25 and 26 of Directive (EU) 2016/1629

² https://www.ccr-zkr.org/files/documents/reglementRV/rv3d_rec_052017.pdf

Note: For vessels operating limited journeys of local interest or in harbour areas governments can establish national derogation schemes. National derogations are not addressed in this leaflet. Approvals for derogations for the Rhine are not permitted at national level.

Derogation approval validity period

Derogations are approved for an unlimited period in the following cases:

- the use, or presence, on board a craft of other materials, installations or items of equipment, or the adoption of arrangements or design aspects other than those included in ES-TRIN, provided that an equivalent level of safety is ensured;
- the application of the hardship clause.

The approval of derogations is granted for a limited period (in general 5 years) in the case of trials incorporating new technical specifications that derogate from the requirements of ES-TRIN, provided that an adequate level of safety is ensured.

Application for approval of derogations and examination of application documents in practice

The procedure consists of three basic steps: preparation at the national level, technical examination by an international working group (either CESNI/PT or RV/G) and administrative validation by international bodies. A good preparation and quality file are prerequisites for an effective examination of the request!

Note: Before the preparation at the national level, the projects initiators should verify the need for a derogation and look for possible precedents. If similar derogation requests have been approved in the past, the technical examination of the new request will be speeded up if the vessel complies with identical conditions.

1. The project initiators prepare a technical file with the national competent authority, and when necessary, with classification societies or expertise bureau. This file must include at least the draft approval of derogation (with the accurate list of derogations of ES-TRIN - see template in appendix) and the annexes to justify that the appropriate level of safety is ensured (for example Hazid study or the like), and any other information that appears necessary (e.g. crew training, maintenance...). Submission of annexes in several languages will speed up the examination.
2. If the file is complete, the member state sends it to the CCNR Secretariat. The technical examination is scheduled for the next quarterly meeting of the Working Group (in general, February, June, September and November). The national competent authority will advocate the file during the meeting with the help of project initiators. The examination could generate the need for amendment of the draft derogation or for additional justifications.

Note: The Secretariat of the CESNI and its working groups is provided by the Secretariat of the CCNR.

3. Once the technical examination has been concluded, the final draft derogation (and the corresponding annexes) is sent to the CCNR or the EC for approval. For the CCNR, the approval takes the form of the issuance of a derogation number followed by the publication in the twice yearly resolutions. For the EU, the approval requires the adoption of an implementing act by the EC in accordance with Directive (EU) 2016/1629.

Note: Pending the conclusions of the procedure in accordance with the RVIR, the national competent authority can issue a provisional Rhine certificate if this authority considers that the safety is ensured.

Pending the conclusion of the procedure, in accordance with the Directive (EU) 2016/1629, the national competent authority can issue a provisional Union certificate once the review of the application has been concluded and the member state has notified the request to the Commission.

A summary of the procedures, as well as an estimation of the timeframe, is given below.

| Steps | Type of certificate | |
|---|---|---|
| | Rhine vessel inspection certificate (request for derogation according to RVIR) | Union certificate for inland navigation vessels (request for derogation according to Directive (EU) 2016/1629) |
| I File preparation | Project initiators and national authority (3-12 months) | |
| II Submission of the application | via the CCNR Secretariat in the case of the RV/G working group (max. 3 months, i.e. in good time prior to a meeting) | via the CCNR Secretariat in the case of the CESNI/PT Working Group (max. 3 months, i.e. in good time prior to a meeting) |
| III Technical examination | Working group RV/G (6-9 months) | Working Group CESNI/PT (6-9 months) |
| IV Approval process | CCNR (publication) (2 weeks) | Communication from the MS to the EC - adoption of the implementing act ³ (roughly 12 months) |

The contact points for further questions are the Inspection bodies, a list of which is to be found on the [CESNI](#) website.

³ One implementing act annually for multiple derogations.

Template for draft derogation and annexes

**RECOMMENDATIONS TO THE INSPECTION BODIES
REGARDING [RVIR / DIRECTIVE (EU) 2016/1629]**

**RECOMMENDATION no. xx/20xx
dated xx.xx.xxxx**

[NAME OF CRAFT]

By way of derogation from [RVIR / Directive (EU) 2016/1629], the [type of craft] [name of craft], unique European vessel identification number [ENI], is permitted to be certified for the use of [alternative technology].

Pursuant to [legal basis], a derogation [until xx.xx.xxxx] from [articles concerned] of the ES-TRIN 2017/1 (hereinafter referred to as ES-TRIN) is permissible. The use of [...] is deemed to be sufficiently safe if the following conditions are met at all times:

1. ...
2. ...
- ...
3. An annual evaluation report containing all the captured data will be sent to the CESNI Secretariat for distribution to Member States. The evaluation report is to contain at least the following information:
 - a) System failure,
 - b) Leakage,
 - c) Nonconformities, repairs and modifications,
 - d) Operating data,
 - ...

Annexes (the annexes are not published)

- Annex 1: Project description
- Annex 2: Detailed list of derogations and evaluation
- Annex 3: General arrangement and other drawings
- Annex 4: Risk assessment (FMEA, HAZID, ...)

Other files, e.g.

- Annex 5: Bunkering procedure
- Annex 6: Training of the crew
- Annex 7: Maintenance
- Annex 8: ...
