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►B DIRECTIVE 2005/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 September 2005 on harmonised river information services (RIS) on inland waterways in the Community

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DIRECTIVE 2005/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 September 2005

on harmonised river information services (RIS) on inland waterways in the Community

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ([1]),

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([2]),

Whereas:

(1) The deployment of information and communication technologies on inland waterways helps to increase significantly the safety and efficiency of transport by inland waterway.

(2) In some Member States national applications of information services are already being deployed on various waterways. In order to ensure a harmonised, interoperable and open navigational aid and information system on the inland waterway network of the Community, common requirements and technical specifications should be introduced.

(3) For safety reasons and in the interests of pan-European harmonisation, the content of such common requirements and technical specifications should build on work carried out in this field by relevant international organisations, such as the International Navigation Association (PIANC), the Central Commission for Navigation on the Rhine (CCNR) and the United Nations Economic Commission for Europe (UNECE).

(4) River information services (RIS) should build on interoperable systems that should be based on open and public standards, available on a non-discriminatory basis to all system suppliers and users.

(5) On national navigable inland waterways not linked to the navigable network of another Member State these requirements and technical specifications need not be mandatory. It is however recommended that RIS, as defined in this Directive, be implemented on those inland waterways and that existing systems be made interoperable with it.

(6) The development of RIS should be based on objectives such as safety, efficiency and the environmental friendliness of inland navigation, which are fulfilled by tasks like traffic and transport management, environment and infrastructure protection and the enforcement of specific rules.

(7) The requirements regarding RIS should concern at least the information services to be provided by the Member States.

(8) The establishment of technical specifications should include systems such as electronic navigational charts, electronic ship

([1]) OJ C 157, 28.6.2005, p. 56.
([2]) Opinion of the European Parliament of 23 February 2005 (not yet published in the Official Journal). Decision of the Council of 27 June 2005.

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reporting, including a uniform European vessel number system, notices to skippers and vessel tracking and tracing. The technical compatibility of the equipment necessary for the use of RIS should be ensured by a Committee.

(9) It should be the responsibility of the Member States, in cooperation with the Community, to encourage users to comply with the procedures and equipment requirements, taking into account the small and medium-sized structure of the companies of the inland navigation sector.

(10) The introduction of RIS will entail the processing of personal data. Such processing should be carried out in accordance with Community rules, as set out, *inter alia*, in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1] and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector [2]. The introduction of RIS should not lead to uncontrolled processing of economically sensitive data relating to market operators.

(11) For the purposes of RIS for which exact positioning is required, the use of satellite positioning should be recommended. These technologies should, wherever possible, be interoperable with other relevant systems and should be integrated with them, in accordance with applicable decisions in this field.

(12) Since the objective of this Directive, namely to establish harmonised RIS in the Community, cannot be sufficiently achieved by the Member States and can therefore, by reason of its European dimension, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.

(13) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [3].

(14) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making [4] Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

1. This Directive establishes a framework for the deployment and use of harmonised river information services (RIS) in the Community in order to support inland waterway transport with a view to enhancing

[1] OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).
[2] OJ L 201, 31.7.2002, p. 37.
[3] OJ L 184, 17.7.1999, p. 23.
[4] OJ C 321, 31.12.2003, p. 1.

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safety, efficiency and environmental friendliness and to facilitating interfaces with other transport modes.

2. This Directive provides a framework for the establishment and further development of technical requirements, specifications and conditions to ensure harmonised, interoperable and open RIS on the Community inland waterways. Such establishment and further development of technical requirements, specifications and conditions shall be carried out by the Commission, assisted by the Committee referred to in Article 11. In this context, the Commission shall take due account of measures developed by relevant international organisations, such as PIANC, CCNR and UNECE. Continuity shall be ensured with other modal traffic management services, in particular maritime vessel traffic management and information services.

Article 2

Scope

1. This Directive applies to the implementation and operation of RIS on all inland waterways of the Member States of class IV and above which are linked by a waterway of class IV or above to a waterway of class IV or above of another Member State, including the ports on such waterways as referred to in Decision No 1346/2001/EC of the European Parliament and of the Council of 22 May 2001 amending Decision No 1692/96/EC as regards seaports, inland ports and intermodal terminals as well as project No 8 in Annex III ([1]). For the purposes of this Directive, the Classification of European Inland Waterways set out in UNECE Resolution No 30 of 12 November 1992 shall apply.

2. Member States may apply this Directive to inland waterways and inland ports not referred to in paragraph 1.

Article 3

Definitions

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

(a) ‘river information services (RIS)’ means the harmonised information services to support traffic and transport management in inland navigation, including, wherever technically feasible, interfaces with other transport modes. RIS do not deal with internal commercial activities between one or more of the involved companies, but are open for interfacing with commercial activities. RIS comprise services such as fairway information, traffic information, traffic management, calamity abatement support, information for transport management, statistics and customs services and waterway charges and port dues;

(b) ‘fairway information’ means geographical, hydrological, and administrative information regarding the waterway (fairway). Fairway Information is one-way information: shore to ship or shore to office;

(c) ‘tactical traffic information’ means the information affecting immediate navigation decisions in the actual traffic situation and the close geographic surroundings;

(d) ‘strategic traffic information’ means the information affecting the medium and long-term decisions of RIS users;

(e) ‘RIS application’ means the provision of river information services through dedicated systems;

(f) ‘RIS centre’, means the place where the services are managed by operators;

([1]) OJ L 185, 6.7.2001, p. 1.

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(g) ‘RIS users’ means all different user groups including boat masters, RIS operators, lock and/or bridge operators, waterway authorities, port and terminal operators, operators in calamity centres of emergency services, fleet managers, cargo shippers and freight brokers;

(h) ‘interoperability’ means that services, data contents, data exchange formats and frequencies are harmonised in such a way that RIS users have access to the same services and information on a European level.

Article 4

Setting-up of RIS

1. Member States shall take the necessary measures to implement RIS on inland waterways falling within the scope of Article 2.

2. Member States shall develop RIS in such a way that the RIS application is efficient, expandable and interoperable so as to interact with other RIS applications and, if possible, with systems for other modes of transport. It shall also provide interfaces to transport management systems and commercial activities.

3. In order to set up RIS, Member States shall:

(a) supply to RIS users all relevant data concerning navigation and voyage planning on inland waterways. These data shall be provided at least in an accessible electronic format;

(b) ensure that for all their inland waterways of class Va and above in accordance with the Classification of European Inland Waterways, in addition to the data referred to in point (a), electronic navigational charts suitable for navigational purposes are available to RIS users;

(c) enable, as far as ship reporting is required by national or international regulations, the competent authorities to receive electronic ship reports of the required data from ships. In cross-border transport, this information shall be transmitted to the competent authorities of the neighbouring State and any such transmission shall be completed before arrival of the vessels at the border;

(d) ensure that notices to skippers, including water level (or maximum allowable draught) and ice reports of their inland waterways, are provided as standardised, encoded and downloadable messages. The standardised message shall contain at least the information necessary for safe navigation. The notices to skippers shall be provided at least in an accessible electronic format.

The obligations referred to in this paragraph shall be fulfilled in compliance with the specifications defined in Annexes I and II.

4. The competent authorities of the Member States shall establish RIS centres according to regional needs.

5. For the use of the automatic identification systems (AIS), the regional arrangement concerning the radiotelephone service on inland waterways concluded in Basel on 6 April 2000 in the framework of the radio regulations of the International Telecommunication Union (ITU) shall apply.

6. Member States, if appropriate in cooperation with the Community, shall encourage boat masters, operators, agents or owners of vessels navigating on their inland waterways and shippers or owners of goods carried on board such vessels to fully profit from the services which are made available under this Directive.

7. The Commission shall take appropriate measures to verify the interoperability, reliability and safety of RIS.

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Article 5

Technical guidelines and specifications

1. In order to support RIS and to ensure the interoperability of these services as required by Article 4(2), the Commission shall define in accordance with paragraph 2 technical guidelines for the planning, implementation and operational use of the services (RIS guidelines) as well as technical specifications in particular in the following areas:

(a) electronic chart display and information system for inland navigation (inland ECDIS);

(b) electronic ship reporting;

(c) notices to skippers;

(d) vessel tracking and tracing systems;

(e) compatibility of the equipment necessary for the use of RIS.

These guidelines and specifications shall be based on the technical principles set out in Annex II and shall take account of work carried out in this field by relevant international organisations.

2. The technical guidelines and specifications referred to in paragraph 1 shall be established and, when appropriate, amended by the Commission in accordance with the procedure laid down in Article 11(3). The establishment shall be carried out in accordance with the following time-table:

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(a) the RIS guidelines by 20 July 2006,

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(b) the technical specifications regarding the inland ECDIS, the electronic ship reporting and the notices to skippers by 20 October 2006,

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(c) the technical specifications regarding the vessel tracking and tracing systems by 20 January 2007.

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3. The RIS guidelines and specifications shall be published in the *Official Journal of the European Union*.

Article 6

Satellite positioning

For the purpose of RIS, for which exact positioning is required, the use of satellite positioning technologies is recommended.

Article 7

Type-approval of RIS equipment

1. Where necessary for the safety of navigation and required by the relevant technical specifications, RIS terminal and network equipment and software applications shall be type-approved for compliance with those specifications before being put into service on inland waterways.

2. Member States shall notify to the Commission the national bodies responsible for type-approval. The Commission shall communicate such information to the other Member States.

3. All Member States shall recognise type-approvals issued by the national bodies of the other Member States referred to in paragraph 2.

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Article 8

Competent authorities

Member States shall designate competent authorities for the RIS application and for the international exchange of data. These authorities shall be notified to the Commission.

Article 9

Rules on privacy, security and the re-use of information

1. Member States shall ensure that processing of personal data necessary for the operation of RIS is carried out in accordance with the Community rules protecting the freedoms and fundamental rights of individuals, including Directives 95/46/EC and 2002/58/EC.

2. Member States shall implement and maintain security measures to protect RIS messages and records against untoward events or misuse, including improper access, alteration or loss.

3. Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information ([1]) shall apply.

▼M1

Article 10

Amendment procedure

Annexes I and II may be amended in the light of the experience gained from the application of this Directive and adapted to technical progress. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(4).

Article 11

Committee procedure

1. The Commission shall be assisted by the Committee set up by Article 7 of Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of boatmasters' certificates for the carriage of goods and passengers by inland waterway ([2]).

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

4. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

5. The Commission shall regularly consult representatives of the sector.

([1]) OJ L 345, 31.12.2003, p. 90.
([2]) OJ L 373, 31.12.1991, p. 29.

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Article 12

Transposition

1. Member States which have inland waterways falling within the scope of Article 2 shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 October 2007. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall take the necessary measures to comply with the requirements set out in Article 4 not later than 30 months after the entry into force of the relevant technical guidelines and specifications referred to in Article 5. The technical guidelines and specifications shall enter into force on the day following that of their publication in the *Official Journal of the European Union*.

3. Following a request by a Member State, the Commission may extend in accordance with the procedure laid down in Article 11(2), the period provided for in paragraph 2 for the implementation of one or more requirements of Article 4 in respect of inland waterways falling within the scope of Article 2 but with low traffic density, or in respect of inland waterways for which the cost of such implementation would be disproportionate to its benefits. This period may be extended by simple decision of the Commission; the extension may be renewed. The justification to be provided with the request by the Member State shall refer to the traffic density and economic conditions on the waterway in question. Until the Commission reaches its decision, the Member State that has requested an extension may continue its operations as if the extension had been granted.

4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field governed by this Directive.

5. Where necessary, Member States shall assist one another in the implementation of this Directive.

6. The Commission shall monitor the setting up of RIS in the Community and shall report to the European Parliament and to the Council by 20 October 2008.

Article 13

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Directive is addressed to the Member States which have inland waterways falling within the scope of Article 2.

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ANNEX I

MINIMUM DATA REQUIREMENTS

As referred to in Article 4(3)(a), in particular the following data shall be supplied:

— waterway axis with kilometre indication,

— restrictions for vessels or convoys in terms of length, width, draught and air draught,

— operation times of restricting structures, in particular locks and bridges,

— location of ports and transhipment sites,

— reference data for water level gauges relevant to navigation.

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ANNEX II

PRINCIPLES FOR RIS GUIDELINES AND TECHNICAL SPECIFICATIONS

1. **RIS Guidelines**

The RIS guidelines referred to in Article 5 shall respect the following principles:

(a) the indication of technical requirements for the planning, implementing and operational use of services and related systems;

(b) the RIS architecture and organisation; and

(c) recommendations for vessels to participate in RIS, for individual services and for the stepwise development of RIS.

2. **Inland ECDIS**

The technical specifications to be established in accordance with Article 5 for an electronic chart display and information system (inland ECDIS) shall respect the following principles:

(a) compatibility with the maritime ECDIS in order to facilitate traffic of inland vessels in mixed traffic zones of the estuaries and sea-river traffic;

(b) the definition of minimum requirements for inland ECDIS equipment as well as the minimum content of electronic navigational charts with a view to the safety of navigation, in particular:

— a high level of reliability and availability of the inland ECDIS equipment used,

— the robustness of the inland ECDIS equipment in order to withstand the environmental conditions typically prevailing on board a vessel without any degradation in quality or reliability,

— the inclusion in the electronic navigational chart of all kinds of geographical objects (e.g. boundaries of the fairway, shoreline constructions, beacons) that are needed for safe navigation,

— the monitoring of the electronic chart with overlaid radar image when used for conning the vessel;

(c) the integration of depth information on the fairway in the electronic navigational chart and display to a predefined or the actual water level;

(d) the integration of additional information (e.g. of other parties than the competent authorities) in the electronic navigational chart and display in the inland ECDIS without affecting the information that is needed for safe navigation;

(e) the availability of electronic navigational charts to RIS users;

(f) the availability of the data for electronic navigational charts to all manufacturers of applications, when appropriate against a reasonable cost-related charge.

3. **Electronic ship reporting**

The technical specifications for electronic ship reporting in inland navigation in accordance with Article 5 shall respect the following principles:

(a) the facilitation of the electronic data exchange between the competent authorities of the Member States, between participants in inland as well as maritime navigation and in multi-modal transport where inland navigation is involved;

(b) the use of a standardised transport notification message for ship-to-authority, authority-to-ship and authority-to-authority messaging in order to obtain compatibility with maritime navigation;

(c) the use of internationally accepted code lists and classifications, possibly complemented for additional inland navigation needs;

(d) the use of a unique European vessel identification number.

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4. **Notices to skippers**

The technical specifications for notices to skippers in accordance with Article 5, in particular regarding fairway information, traffic information and management as well as voyage planning, shall respect the following principles:

(a) a standardised data structure using predefined text modules and encoded to a high extent in order to enable automatic translation of the most important content into other languages and to facilitate the integration of notices to skippers into voyage planning systems;

(b) the compatibility of the standardised data structure with the data structure of inland ECDIS to facilitate integration of notices to skippers in inland ECDIS.

5. **Vessel tracking and tracing systems**

The technical specifications for vessel tracking and tracing systems in accordance with Article 5 shall respect the following principles:

(a) the definition of the requirements concerning systems and of standard messages as well as procedures so that they can be provided in an automated way;

(b) the differentiation between systems suited to requirements of tactical traffic information and systems suited to requirements of strategic traffic information, both with regard to positioning accuracy and required update rate;

(c) the description of the relevant technical systems for vessel tracking and tracing such as Inland AIS (inland automatic identification system);

(d) compatibility of data formats with the maritime AIS system.