

Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (Text with EEA relevance)

Article 1

Scope

1 This Directive shall apply to the transport of dangerous goods by road, by rail or by inland waterway within or between Member States, including the activities of loading and unloading, the transfer to or from another mode of transport and the stops necessitated by the circumstances of the transport.

It shall not apply to the transport of dangerous goods:

- a by vehicles, wagons or vessels belonging to or under the responsibility of the armed forces;
- b by seagoing vessels on maritime waterways forming part of inland waterways;
- c by ferries only crossing an inland waterway or harbour; or
- d wholly performed within the perimeter of an enclosed area.

2 Annex II, Section II.1, shall not apply to Member States that do not have a railway system, for as long as no such system is established within their territory.

3 Within one year of the entry into force of this Directive, Member States may decide not to apply Annex III, Section III.1, for one of the following reasons:

- a they have no inland waterways;
- b their inland waterways are not linked, by inland waterway, to the waterways of other Member States; or
- c no dangerous goods are transported on their inland waterways.

If a Member State decides not to apply the provisions of Annex III, Section III.1, it shall notify that decision to the Commission, which shall inform the other Member States.

4 Member States may lay down specific safety requirements for the national and international transport of dangerous goods within their territory as regards:

- a the transport of dangerous goods by vehicles, wagons or inland waterway vessels not covered by this Directive;
- b where justified, the use of prescribed routes including the use of prescribed modes of transport;
- c special rules for the transport of dangerous goods in passenger trains.

They shall inform the Commission of such provisions and their justifications.

The Commission shall inform the other Member States accordingly.

5 Member States may regulate or prohibit, strictly for reasons other than safety during transport, the transport of dangerous goods within their territory.

Article 2

Definitions

For the purposes of this Directive:

1. 'ADR' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957, as amended;
2. 'RID' shall mean the Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Appendix C to the Convention concerning International Carriage by Rail (COTIF) concluded at Vilnius on 3 June 1999, as amended;
3. 'ADN' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways, concluded at Geneva on 26 May 2000, as amended;
4. 'vehicle' shall mean any motor vehicle intended for use on the road, having at least four wheels and a maximum design speed exceeding 25 km/h, and any trailer, with the exception of vehicles which run on rails, mobile machinery and agricultural and forestry tractors that do not travel at a speed exceeding 40 km/h when transporting dangerous goods;
5. 'wagon' shall mean any rail vehicle without its own means of propulsion that runs on its own wheels on railway tracks and is used for the carriage of goods;
6. 'vessel' shall mean any inland waterway or seagoing vessel.

Article 3

General provisions

1 Without prejudice to Article 6, dangerous goods shall not be transported in so far as this is prohibited by Annex I, Section I.1, Annex II, Section II.1, or Annex III, Section III.1.

2 Without prejudice to the general rules on market access or the rules generally applicable to the transport of goods, the transport of dangerous goods shall be authorised, subject to compliance with the conditions laid down in Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1.

Article 4

Third countries

The transport of dangerous goods between Member States and third countries shall be authorised in so far as it complies with the requirements of the ADR, RID or ADN, unless otherwise indicated in the Annexes.

Article 5

Restrictions on grounds of transport safety

1 Member States may on grounds of transport safety apply more stringent provisions, with the exception of construction requirements, concerning the national transport of dangerous goods by vehicles, wagons and inland waterway vessels registered or put into circulation within their territory.

2 If, in the event of an accident or incident within its territory, a Member State considers that the safety provisions applicable have been found to be insufficient to limit the hazards involved in transport operations and if there is an urgent need to take action, that Member State shall, at the planning stage, notify the Commission of the measures which it proposes to take.

Acting in accordance with the procedure referred to in Article 9(2), the Commission shall decide whether to authorise the implementation of the measures in question and the duration of that authorisation.

Article 6

Derogations

1 Member States may authorise the use of languages other than those provided for in the Annexes for transport operations performed within their territories.

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- a Provided that safety is not compromised, Member States may request derogations from Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1, for the transport within their territories of small quantities of certain dangerous goods, with the exception of substances having a medium or high level of radioactivity, provided that the conditions for such transport are no more stringent than the conditions set out in those Annexes.
- b Provided that safety is not compromised, Member States may also request derogations from Annex I, Section I.1, Annex II, Section II.1, and Annex III, Section III.1, for the transport of dangerous goods within their territory in the case of:
 - (i) local transport over short distances; or
 - (ii) local transport by rail on particular designated routes, forming part of a defined industrial process and being closely controlled under clearly specified conditions.

The Commission shall examine in each case whether the conditions laid down in subparagraphs (a) and (b) have been met and shall decide, in accordance with the procedure referred to in Article 9(2), whether to authorise the derogation and to add it to the list of national derogations set out in Annex I, Section I.3, Annex II, Section II.3, or Annex III, Section III.3.

3 Derogations under paragraph 2 shall be valid for a period not exceeding six years from the date of authorisation, such period to be fixed in the authorisation decision. As regards the existing derogations set out in Annex I, Section I.3, Annex II, Section II.3, and Annex III, Section III.3, the date of authorisation shall be deemed to be 30 June 2009. Unless indicated otherwise, derogations shall be valid for a period of six years.

Derogations shall be applied without discrimination.

4 If a Member State requests the extension of an authorisation for a derogation, the Commission shall review the derogation in question.

If no amendment to Annex I, Section I.1, Annex II, Section II.1, or Annex III, Section III.1, affecting the subject matter of the derogation has been adopted, the Commission, acting in accordance with the procedure referred to in Article 9(2), shall renew the authorisation for a further period not exceeding six years from the date of authorisation, such period to be fixed in the authorisation decision.

If an amendment to Annex I, Section I.1, Annex II, Section II.1, or Annex III, Section III.1, affecting the subject matter of the derogation has been adopted, the Commission, acting in accordance with the procedure referred to in Article 9(2), may:

- a declare the derogation obsolete and remove it from the relevant Annex;
- b limit the scope of the authorisation and amend the relevant Annex accordingly;
- c renew the authorisation for a further period not exceeding six years from the date of authorisation, such period to be fixed in the authorisation decision.

5 Every Member State may, exceptionally and provided that safety is not compromised, issue individual authorisations to carry out transport operations of dangerous goods within its territory which are prohibited by this Directive or to carry out such operations under conditions different from those laid down in this Directive, provided that those transport operations are clearly defined and limited in time.

Article 7

Transitional provisions

1 Within their respective territories, Member States may maintain the provisions listed in Annex I, Section I.2, Annex II, Section II.2, and Annex III, Section III.2.

Member States which maintain such provisions shall inform the Commission thereof. The Commission shall inform the other Member States.

2 Without prejudice to Article 1(3), Member States may choose not to apply the provisions of Annex III, Section III.1, until, at the latest, 30 June 2011. In such a case, the Member State concerned shall, in respect of inland waterways, continue to apply the provisions of Directives 96/35/EC and 2000/18/EC applicable on 30 June 2009.

Article 8

Adaptations

1 The amendments necessary to adapt the Annexes to scientific and technical progress, including the use of technologies for tracking and tracing, in the fields covered by this Directive, in particular to take account of amendments to the ADR, RID and ADN, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(3).

2 The Commission shall provide financial support, as appropriate, to the Member States for the translation of the ADR, RID and ADN and their modifications into their official language.

Article 9

Committee procedure

1 The Commission shall be assisted by a committee on the transport of dangerous goods.

2 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 referred to in Article 5(6) of Decision 1999/468/EC shall be set at three months.

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

The time limits laid down in Article 5a(3)(c) and (4)(b) and (e) of Decision 1999/468/EC shall be set at one month, one month and two months respectively.

Article 10

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2009 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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 11

Amendment

Article 6 of Directive 2006/87/EC is hereby deleted.

Article 12

Repeals

1 Directives 94/55/EC, 96/49/EC, 96/35/EC and 2000/18/EC are hereby repealed as from 30 June 2009.

Certificates issued pursuant to the provisions of the repealed Directives shall remain valid until their expiry dates.

2 Decisions 2005/263/EC and 2005/180/EC are hereby repealed.

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.

Done at Strasbourg, 24 September 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J.-P. JOUYET