

Recommendation on the issuing of the certificate of belonging to the navigation of the Rhine and the operator's certificate

Under Regulation (EEC) No. 2919/85 of 17 October 1985 defining the conditions for invoking the regulation, which is reserved under the revised Convention for Rhine Navigation for vessels belonging to the navigation of the Rhine, the Member States of the European Union (EU), the European Economic Area (EEA) and of the CCNR, can issue the certificate of belonging to the navigation of the Rhine to any vessel registered in a Member State of the CCNR, EU or EEA and which complies with the conditions laid down in the aforementioned regulation. The certificate provides access to Rhine cabotage.

This recommendation is intended for national authorities responsible for issuing the certificate and highlights the controls that can be carried out, within the aforementioned regulation, to combat fraud as effectively as possible. Given that this is one of the key objectives of this procedure, it is important to adhere to it in situations in which there is a high risk of fraud, in particular when the owner and operator are located in different Contracting States. In light of the difficulties encountered by the Contracting State in which the operator is domiciled or has his headquarters when consulting the register of the Contracting State in which the vessel is registered, the procedure assumes that the certificate of belonging to the navigation of the Rhine is requested by the owner in the country where the vessel is entered in the official registers. If no such register exists or if a vessel is not registered in one of the Contracting States, the request then needs to be submitted to the authorities in the Contracting State in which the company of the vessel's owner is domiciled, is resident or has its headquarters or, in the event of co-ownership, of the first co-owner to have submitted a request for the issue of a certificate of belonging to the navigation of the Rhine.

In this recommendation, the term "Contracting State" refers to a Member State of the EU, EEA or CCNR.

A. Certificate of belonging and operator's certificate

The certificate of belonging and the operator's certificate clearly refer to the owner and operator of the vessel in question.

The procedure applies only if the owner and operator of the vessel are not the same (legal) person and not domiciled or located in the same Contracting State.

The owner submits a request for a certificate of belonging to the navigation of the Rhine to the Contracting State in which the vessel is entered in the official registers. If no such register exists or in the event of a vessel not being registered in one of the Contracting States, the request must be submitted to the authorities of the Contracting State in which the domicile or residence¹, the registered office of the company² or the headquarters³ of the owner of the vessel is located or, in the event of co-ownership, of the first co-owner to have submitted a request for the issuing of a certificate of belonging. The request must be accompanied by a valid operator's certificate.

¹ In the case of natural persons.

² In the case of private companies.

³ In the case of public companies.

The operator lodges his request for an operator's certificate with the competent authority of the Contracting State in which his domicile⁴, registered office⁵ or headquarters⁶ is located, this place also being required to be the real headquarters and centre of his commercial activities as well as being the place from which he operates his vessel.

The operator is the person who operates the vessel on his behalf and at his risk. If the vessel is operated for more than one entity, the operator shall be the person who actually operates the vessel and is authorised to take decisions concerning the vessel's economic and commercial management.

The entity that is responsible only for engaging the staff working on board cannot be deemed to be the operator.

In the event of bareboat charter, the operator is the vessel's leaseholder/charterer.

In the case of time charter or voyage charter the owner is typically the one who benefits from the vessel's operation.

In the case of a ship management contract, the management company cannot be deemed to be the operator.

The request forms in annexes 1 and 2 of this recommendation have been designed to improve the checks made prior to issuing these certificates.

The application in annex 1 is for requesting a declaration of belonging.

The application to be found in annex 2 is for requesting an operating certificate.

Annex 3 of this recommendation contains a model declaration of belonging to the navigation of the Rhine and model operating certificate.

B. *Renewal and on-site visits*

Under article 6 (3) of Regulation (EEC) No. 2918/85, the competent authorities are able to carry out unannounced on-site inspection visits to check that the conditions for issuing the certificate of belonging to the navigation of the Rhine are still being met. It is desirable for such checks to be carried out to avoid abuse.

Furthermore we recommend that the operator's certificate be valid for no longer than five years at the most. The beneficiary of the operator's certificate must be notified in advance of the document's validity period by the issuing authority.

In addition, the owner and the operator must notify any change in their situation to the competent authority, in accordance with article 6 (2) of Regulation (EEC) No. 2919/85.

C. *Issuing authority*

If possible, the issuing authority should be the same one issuing the certificate of professional competence (see Regulation (EC) No. 1356/96). It is desirable for the issuing of the certificate of belonging to the navigation of the Rhine and the operating certificate to operate within a framework of closer cooperation with the other services concerned in the States in question (vessel registration authority, tax authorities, if relevant).

⁴ In the case of natural persons.

⁵ In the case of private companies.

⁶ In the case of public companies.