

15 NOVEMBER 2024. - Decree of the Flemish Government authorising specific means of detection and conditions for establishing offences and infringements referred to in the Shipping Decree of 21 January 2022, and the regulations implementing the aforementioned Decree

Legal basis

This Decree is based on:

- the Shipping Decree of 21 January 2022, Article 114.

Procedural requirements

The following procedural requirements have been met:

- The Inspectorate of Finance issued its opinion on 29 March 2024.
- The Council of State issued its opinion 76.222/3 on 21 May 2024, pursuant to Article 84(1)(1)(2°) of the Laws on the Council of State, coordinated on 12 January 1973.
- The Decree was notified to the European Commission on 11 June 2024 in accordance with Article 5(1) of Directive (EU) 2015/1535.

Initiator

This Decree is proposed by the Flemish Minister for Mobility, Public Works, Ports and Sport.

Following deliberations,

THE FLEMISH GOVERNMENT HEREBY DECREES THE FOLLOWING:

Article 1. Staff of competent authorities, waterway managing bodies, port authorities or pilotage services who are designated as a supervisor, administrative investigator or judicial police officer, can use the automatic devices based on the following technologies to establish offences and infringements referred to in the Shipping Decree of 21 January 2022, and the regulations implementing the aforementioned Decree:

- 1° radar;
- 2° laser;
- 3° sensor;
- 4° transponder;
- 5° nautical software;
- 6° sound measurement;
- 7° sampling.

Article 2. Offences and infringements may be detected with automatic devices, based on the technologies referred to in Article 1 of this Decree if all of the following conditions are met:

- 1° a measurement by an automatic device cannot be distorted or tampered with;
- 2° the record of establishment or report shall indicate the identification and use of the automatic device and the result of the measurement;
- 3° a speed measurement by means of an automatic device, measuring the passage of time between transit at two digital points, can only be carried out on a linear route, a route with no branches or large curves, after publication in nautical publications;

Article 3. The following automatic devices have been approved for the purpose of establishing offences and infringements referred to in the Shipping Decree of 21 January 2022, and the regulations implementing the aforementioned Decree:

- 1° an automatic device using radar technology, if it complies with IALA guideline R0128 in the context of VTS systems and equipment and guideline G1111-3 for radar production requirements;
- 2° an automatic device using transponder technology, if it complies with the provisions listed in the Annex to Commission Implementing Regulation (EU) 2019/838 of 20 February 2019 on technical specifications for vessel tracking and tracing systems and repealing Regulation (EC) No 415/2007 or equivalent;
- 3° an automatic device using sampling technology in the context of alcohol measurement, if it complies with the provisions of the Royal Decree of 21 April 2007 on breath testing and breath analysis equipment;
- 4° an automatic device using sound measurement technology, if it complies with standard IEC 61672-1:2013, Class 1 or equivalent.

Article 4. Automatic devices that have not been approved or validated may still be used until the approval or validation referred to in Article 114(2) of the Shipping Decree of 21 January 2022.

Article 5. The Flemish Minister responsible for waterborne mobility and waterborne transport shall be responsible for the implementation of this Decree.

Brussels, 15 November 2024.

The Minister-President of the Flemish Government,

M. DIEPENDAELE

The Flemish Minister for Mobility, Public Works, Ports and Sport

A. DE RIDDER