



Council of the
European Union

Brussels, 16 September 2021
(OR. en)

11760/21

**Interinstitutional File:
2021/0228(COD)**

**CODEC 1208
UK 202
TRANS 541
PE 92**

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2020/2222 of the European Parliament and of the Council with regard to the cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link - Outcome of the European Parliament's first reading (Strasbourg, 13-16 September 2021)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

After the plenary approved the request of the Committee on Transport and Tourism (TRAN) to proceed according to the Rule 163 (urgent procedure) on 13 September 2021, the TRAN Committee presented an amended text of the abovementioned proposal that corresponds, after revision by the legal linguists, to the text in the annex to the letter, of 1 September 2021, from the Chair of the Permanent Representatives Committee to the Chair of the TRAN Committee.

II. VOTE

When it voted on 15 September 2021, the plenary adopted in a single vote procedure the EP first-reading position on the Commission's proposal which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2021)0371

Extension of validity of safety certificates and licences of railway undertakings operating in the Channel tunnel *I**

European Parliament legislative resolution of 15 September 2021 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2020/2222 of the European Parliament and of the Council with regard to the cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link (COM(2021)0402 – C9-0314/2021 – 2021/0228(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0402),
 - having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0314/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - after consulting the European Economic and Social Committee,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 1 September 2021 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2021)0228

Position of the European Parliament adopted at first reading on 15 September 2021 with a view to the adoption of Regulation (EU) 2021/... of the European Parliament and of the Council amending Regulation (EU) 2020/2222 to extend the period of validity of safety certificates and licences of railway undertakings operating through the Channel Fixed Link

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

² Position of the European Parliament of 15 September 2021.

Whereas:

- (1) In order to ensure connectivity between the Union and the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”) after the end of the transition period referred to in Article 126 of the Agreement on the withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community³, as well as the continuity of the operations of the railway undertakings established and licensed in the United Kingdom which operate through the Channel Fixed Link, Regulation (EU) 2020/2222 of the European Parliament and of the Council⁴ has extended until 30 September 2021 the period of validity of the licences issued by the United Kingdom under Directive 2012/34/EU of the European Parliament and of the Council⁵ to railway undertakings established in its territory, as well as that of the safety certificates issued to those undertakings under Directive 2004/49/EC of the European Parliament and of the Council⁶ by the Intergovernmental Commission established pursuant to Article 10 of the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the construction and operation by private concessionaires of a Channel fixed link, signed at Canterbury on 12 February 1986 (the “Treaty of Canterbury”).

³ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7).

⁴ Regulation (EU) 2020/2222 of the European Parliament and of the Council of 23 December 2020 on certain aspects of railway safety and connectivity with regard to the cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link (OJ L 437, 28.12.2020, p. 43).

⁵ Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

⁶ Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (OJ L 164, 30.4.2004, p. 44).

- (2) Decision (EU) 2020/1531 of the European Parliament and of the Council⁷ empowers France and the United Kingdom to conclude an international agreement supplementing the Treaty of Canterbury as regards the application of railway safety rules within the Channel Fixed Link. However, that agreement has not been concluded yet nor is it likely to be concluded soon.
- (3) In those circumstances, France is negotiating with the United Kingdom a cross-border agreement pursuant to Article 14 of Directive 2012/34/EU regarding safety certificates. France has already negotiated such an agreement regarding licences of railway undertakings, as notified to the Commission on 1 June 2021 and as authorised by the Commission on 20 August 2021. The internal procedures required under the laws of France and the United Kingdom for the provisional application or entry into force of those agreements are expected to take six months to complete after the expiry, on 30 September 2021, of the measures provided for in Regulation (EU) 2020/2222.

⁷ Decision (EU) 2020/1531 of the European Parliament and of the Council of 21 October 2020 empowering France to negotiate, sign and conclude an international agreement supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link (OJ L 352, 22.10.2020, p. 4).

- (4) Unless the period of validity of the licences and safety certificates is extended so as to allow for the cross-border agreement regarding safety certificates to be negotiated, subject to the assessment to be made and the implementing decision to be adopted by the Commission pursuant to Article 14 of Directive 2012/34/EU, and for the cross-border agreement regarding safety certificates and the cross-border agreement regarding licences to be provisionally applied or concluded, operations of the railway undertakings concerned through the Channel Fixed Link will come to a halt on 30 September 2021. This would cause significant disruption in the transport of passengers and freight between the Union and the United Kingdom.
- (5) It is therefore in the Union's interest to extend the period of validity of those certificates and licences until 31 March 2022 by amending Regulation (EU) 2020/2222.
- (6) In view of the urgency entailed by the expiry of the measures provided for in Regulation (EU) 2020/2222, it is appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

- (7) Since the objective of this Regulation, namely to extend the period of validity of safety certificates and licences of railway undertakings operating through the Channel Fixed Link beyond the end of the transition period, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (8) In order to enable the measures provided for in this Regulation to be applied promptly, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2020/2222 is amended as follows:

(1) Article 3 is amended as follows:

(a) in paragraph 2, the first sentence is replaced by the following:

‘2. The safety certificates referred to in point (b) of Article 1(2) shall remain valid for fifteen months from the date of application of this Regulation.’;

(b) in paragraph 3, the first sentence is replaced by the following:

‘3. The licences referred to in point (c) of Article 1(2) shall remain valid for fifteen months from the date of application of this Regulation.’;

(2) in Article 8, paragraph 3 is replaced by the following:

‘3. This Regulation shall cease to apply on 31 March 2022.’.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President
