EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2017/2397 as regards the transitional measures for the recognition of third-country certificates

DIRECTIVE (EU) 2021/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Directive (EU) 2017/2397 as regards the transitional measures for the recognition of third-country certificates

(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,

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 ordinary legislative procedure[2],

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1 OJ C 220, 9.6.2021, p. 87.

2 Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal)] and decision of the Council of ….

Whereas:

(1) Directive (EU) 2017/2397 of the European Parliament and of the Council[1] sets out transitional measures in order to ensure the continued validity of certificates of qualification, service record books and logbooks issued before the end of its transposition period, and to give skilled crew members reasonable time in which to apply for a Union certificate of qualification, or another certificate recognised as equivalent. However, with the exception of the Rhine navigation licences referred to in Article 1(5) of Council Directive 96/50/EC[2], those transitional measures do not apply to the certificates of qualification, service record books and logbooks issued by third countries that are currently recognised by Member States under their national requirements, or international agreements, applicable before the entry into force of Directive (EU) 2017/2397.

(2) Article 10(3), (4) and (5) of Directive (EU) 2017/2397 lays down the procedure and the conditions for the recognition of certificates, service record books or logbooks issued by the authorities of a third country.

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1 Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC (OJ L 345, 27.12.2017, p. 53).

2 Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community (OJ L 235, 17.9.1996, p. 31).

(3) Given that the procedure for recognition of third-country documents is based on the assessment of the certification systems in the requesting third country with the aim of determining whether the issuing of the certificates, service record books or logbooks specified in the request is subject to requirements that are identical to those laid down in Directive (EU) 2017/2397, it is unlikely that the recognition procedure will be completed before 17 January 2022.

(4) In order to ensure a smooth transition to the system of the recognition of third-country documents provided for in Article 10 of Directive (EU) 2017/2397, it is necessary to provide for transitional measures which allow the time needed for third countries to align their requirements to those laid down in that Directive, as well as for the Commission to assess their certification systems and, where appropriate to adopt an implementing act under Article 10(5) of that Directive. Those measures would also ensure legal certainty to the individuals and economic operators active in the inland waterway transport sector. In the light of those objectives, it is appropriate to set the cut-off date for third-country documents falling within the scope of those transitional measures by reference to the period for the transposition of that Directive, extended by two years.

(5) To ensure consistency with the transitional measures applicable to the Member States pursuant to Article 38 of Directive (EU) 2017/2397, the transitional measures applicable to certificates of qualification, service record books and logbooks issued by third countries and recognised by the Member States should not apply beyond 17 January 2032. Moreover, the recognition of such certificates of qualification, service record books and logbooks should be restricted to the Union inland waterways situated in the Member State concerned.

(6) In order to ensure consistency with the transitional measures applicable to certificates of qualification issued by Member States, it is appropriate to clarify that as regards third-country certificates, the requirements referred to in Article 10(3) of Directive (EU) 2017/2397 also include the requirements for the exchange of the existing certificates set out in Article 38(1) and (3) of that Directive.

(7) Therefore, in order to provide inland waterway transport companies and workers with legal clarity and certainty, Directive (EU) 2017/2397 should be amended accordingly.

(8) In accordance with Article 39(4) of Directive (EU) 2017/2397, Member States where inland waterway navigation is not technically possible are not obliged to transpose that Directive. That derogation should apply to this Directive, *mutatis mutandis*.

(9) Since the objective of this Directive, namely setting out transitional measures for the recognition of third-country certificates, 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 Directive does not go beyond what is necessary in order to achieve that objective.

(10) In order to enable Member States to promptly proceed with the transposition of the measures for which this Directive provides, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive (EU) 2017/2397 is amended as follows:

(1) in Article 10, paragraph 3 is replaced by the following:

‘3. Without prejudice to paragraph 2 of this Article, any certificate of qualification, service record book or logbook that has been issued in accordance with the national rules of a third country laying down requirements that are identical to those of this Directive, including those set out in Article 38(1) and (3), shall be valid on all Union inland waterways, subject to the procedure and the conditions set out in paragraphs 4 and 5 of this Article.’;

(2) in Article 38, the following paragraph is added:

‘7. Until 17 January 2032, Member States may continue to recognise, on the basis of their national requirements, or international agreements, applicable before 16 January 2018, certificates of qualification, service record books and logbooks that have been issued by a third country before 18 January 2024. The recognition shall be limited to the inland waterways on the territory of the Member State concerned.’.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 January 2022. They shall immediately 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.

   The derogation laid down in Article 39(4) of Directive (EU) 2017/2397 shall apply to this Directive, *mutatis mutandis*.

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 3

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

Article 4

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*