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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2017/2397 as regards the transitional measures for the recognition of third countries certificates - Outcome of the European Parliament's first reading (Strasbourg, 5 to 8 July 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.

In this context, the rapporteur Andris Ameriks (S&D, LV) presented, on behalf of the Committee on Transport and Tourism, seven amendments (1-7) to the abovementioned proposal for a Directive. These amendments had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 6 July 2021, the plenary adopted the amendments 1-7 to the abovementioned proposal for a Directive. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[1].

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.

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[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)0320

Recognition of third countries certificates in inland navigation ***I

European Parliament legislative resolution of 6 July 2021 on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2017/2397 as regards the transitional measures for the recognition of third countries certificates (COM(2021)0071 – C9-0026/2021 – 2021/0039(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0071),

– 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 (C9-0026/2021),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 24 March 2021[2],

– after consulting the Committee of the Regions,

– having regard to the undertaking given by the Council representative by letter of 30 June 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 Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Transport and Tourism (A9-0210/2021),

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.

[2] OJ C 220, 9.6.2021, p. 87.

P9_TC1-COD(2021)0039

Position of the European Parliament adopted at first reading on 6 July 2021 with a view to the adoption of Directive (EU) 2021/… 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

(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[3],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[4],

[3] OJ C 220, 9.6.2021, p. 87.

[4] Position of the European Parliament of 6 July 2021.

Whereas:

(1) Directive (EU) 2017/2397 of the European Parliament and of the Council[5] 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[6], 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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5 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).

6 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-countrydocuments 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-countrydocuments 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-countrydocuments 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.

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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*