



Council of the European Union  
General Secretariat

**Brussels, 05 March 2021**

**WK 3059/2021 ADD 1**

**LIMITE**

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## **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on Shipping
N° Cion doc.:	ST 6209/21
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 - Comments by Poland

Delegations will find attached comments by **Poland** on the above subject.

## **Written comments of the Republic of Poland to document ST 6209/21**

**(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)**

The Republic of Poland notes that the comments are preliminary, because Poland's position on the aforementioned document is being prepared. For this reason, Poland maintains the parliamentary objections raised.

- 1. Poland notes and expresses its doubts as to the cut-off date provided for in the added Article 38(7) (i.e. 18 January 2023)**

### **Rationale:**

**In Poland's opinion, having such a short cut-off date, third countries will not be able to adapt their national requirements and obtain the Commission's recognition by that date.**

In such a case, the objective of the proposed directive, which is to ensure a smooth transition to Article 10 of Directive (EU) 2017/2397 of the system of recognition of documents issued by third countries, may not be achieved.

Poland's doubts in this matter coincide with the comments of Germany, and **the proposal prepared by Germany, setting the cut-off date for 18 January 2024, seems to be justified.**

- 2. Poland also considers it necessary to extend the proposed directive with additional regulations, within the scope of the amended Article 38, which will allow for the extension of the period for issuing certificates of qualification by the Member States based on the current national regulations, which documents will be recognized in line with the current rules, and for a similar extension of the period for issuing the existing service record bookd (SRB) and logbooks. This period, similarly to the solutions proposed for third countries, should be extended until 18 January 2024.**

### **Rationale:**

In accordance with the current regulations of Article 38(1),(3) and(4) of the Directive, it will still be possible to use the documents issued before 18 January 2020, i.e. until the day following the final transposition date.

However, in order to issue documents compliant with the directive, it is necessary not only to fully transpose the directive, including implementing and delegated acts, but also to set up and launch electronic registers compatible with the Commissions' database.

The standards specifying the characteristics of the databases of EU certificates of qualification and service record books have been set out in Commission Delegated Regulation (EU) 2020/473 of 20 January 2020 supplementing Directive (EU) 2017/2397 of the European Parliament and of the Council with regard to the standards for databases for the Union certificates of qualification, service record books and logbooks (OJ L 100, p. 1). Pursuant to Article 36(1) of Directive (EU) 2017/2397, the Commission shall set up the database at the latest 24 months after the adoption of the aforementioned delegated acts.

The above means that the time needed to secure financing and then to design, set-up, launch and test national registers compatible with the Commission's database is very short and the deadline may prove impossible to meet. Such a scenario may lead to a situation where a Member State will not be able to issue documents compliant with the Directive, which will be particularly burdensome for shipping companies and crew members wishing to obtain documents that would be recognized on European waterways, and consequently lead to serious disturbance in the labor market, and for safe and efficient operation on inland waterways.

*As underlined in Regulation (EU) 2021/267 of the European Parliament and of the Council of 16 February 2021 laying down specific and temporary measures in view of the persistence of the COVID-19 crisis concerning the renewal or extension of certain certificates, licenses and authorisations, the postponement of certain periodic checks and periodic training in certain areas of transport legislation and the extension of certain periods referred to in Regulation (EU) 2020/698, the persistence of the COVID-19 pandemic and the associated public health crisis represent an unprecedented challenge for the Member States and impose a heavy burden on national authorities, Union citizens, and economic operators, in particular transport operators. Therefore, the protection of their interests is particularly important.*

Extending the scope of the proposal for a directive to include the aforementioned regulations will help avoid potential additional burdens for transport operators from the Member States, which will not be physically able to issue EU documents within the time limit currently provided for in the directive. It should be noted that the proposed solution will not compromise the safety conditions as it does not introduce any significant changes but is only intended to extend the current situation.

The cut-off date proposed by the Republic of Poland for issuing the existing documents should be set at 18 January 2024 and be consistent with the date set for third countries. Such a solution will ensure that the situation of the Member States is not worse than that of third countries which benefit from the provisions of paragraph 7 added to Article 38.

At the same time, in the opinion of the Republic of Poland, the presented proposal seems to be more optimal than the possible extension of the transposition deadline for the directive, which would also help attain the aforementioned objective.

Member States that will implement the directive and will acquire the ability to physically issue EU documents will be able to issue documents that are fully recognized on all inland waterways within the deadline provided for in the directive, while other countries will retain the ability to issue documents that are recognized under the current rules. Taking into account the fact that the directive introduces solutions favorable to crew members, it should be assumed that each country will take steps to be ready to issue EU documents as soon as possible.