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#### NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	ST 6915/19
No. Cion doc.:	ST 6340/19
Subject:	Proposal for a Regulation of the European Parliament and of the Council on certain aspects of railway safety and connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union <b>(First reading) (Legislative deliberation)</b> <ul style="list-style-type: none"><li>– Preparation for adoption of the legislative act</li><li>– Decision to use the written procedure for the adoption</li></ul>

1. The Commission submitted the above proposal on 12 February 2019 to the Council. It is part of the "contingency measures" aiming at cushioning during a transitional period the consequences of the withdrawal of the United Kingdom from the Union without a withdrawal agreement.
2. The proposal envisages to prolong the validity of a certain type of rail infrastructure safety authorisation to ensure the continuity without disruptions of cross-border railway operations towards and from the UK. A specific need arises from the fact that a bilateral agreement between FR and the UK needs to be adapted to the new situation so that it can continue to provide the appropriate safety management framework for these operations.

3. The proposal complements Directive 2004/49/EC<sup>1</sup>. The extended validity of authorisations for certain parts of the rail infrastructure in line with the relevant EU law should be limited in time to what is strictly necessary for adapting to the new situation. The contingency measure is conditional on safety standards identical with the EU requirements being applied to the infrastructure on the UK territory which are used for the cross-border rail connectivity.
4. The ad hoc working party (Article 50) discussed the proposal on 14 and 26 February 2019 and provided guidance to the land transport working party. The land transport working party discussed the proposal on 25 February and 4 March 2019. The FR, PL and UK delegations entered a parliamentary scrutiny reservation. Delegations supported the proposal, and agreed on enlarging it towards other specific licences and authorisations for which a contingency measure appeared necessary as well. The group also opted for an extension of the respective validity period to 9 months. The Commission representative reserved the Commission's position with respect to the extension of time and with respect to the inclusion of train driver licences into the scope.
5. On 6 March 2019, the Permanent Representatives Committee endorsed a mandate for negotiations<sup>2</sup> which allowed the Presidency to pursue exploratory talks prior to the vote in first reading in the European Parliament.
6. In the European Parliament, Mr Ismail Ertug (S&D, DE) was appointed rapporteur on 27 February 2019. Prior to his appointment, the coordinators of the Committee on Transport and Tourism agreed to aim for a decision in Plenary without a Committee report, using an urgent procedure.
7. The exploratory talks on 11 March 2019 showed that the indicative positions of Parliament and Council were close to each other. In parallel to these talks, an urgency legal-linguistic revision of the progressing texts proceeded.
8. The European Parliament voted on its position in first reading on 13 March 2019, as set out in the addendum to this note.

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<sup>1</sup> Directive 2004/49/EC on safety on the Community's railways, OJ L 164, 30.4.2004, p.44.

<sup>2</sup> Document 6915/19.

9. The vote in the European Parliament reflects in substance the mandate agreed by the Permanent Representatives Committee on 6 March 2019. However, the European Parliament developed recital 3 of the initial Commission proposal (recital 4 of the finalised text). This recital reflects on the ongoing efforts by the authorities jointly responsible for the safety management in the Channel tunnel in developing the future management framework. In summary, the difference between the first reading position of the European Parliament and the indicative position set out in the Coreper mandate is in essence<sup>3</sup> limited to this part of recital 4.
10. The Permanent Representatives Committee is therefore asked to:
- agree to the European Parliament's position as set out in the addendum to this note,
  - invite the Council to approve the European Parliament's position, and
  - unanimously decide on the use of the written procedure for the Council's approval (Article 12 (1) RoP), whereby use of this procedure should be made if necessary to ensure that the Regulation be adopted before the withdrawal date. In case that the withdrawal date will be prolonged until after a Council meeting, Council should be invited for approval through an 'A' item note.

If the Council approves the European Parliament's position, the legislative act will be adopted.

After being signed by the President of the European Parliament and the President of the Council, the legislative act will be published in the Official Journal of the European Union.

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<sup>3</sup> In additional, recital 11 was added which refers to the principle of subsidiarity and has been drafted in the same way as recital 12 of the Regulation on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (2018/0433(COD)).