



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

**Brussels, 20 May 2020
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**AVIATION 58
CODEC 333**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: **DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directives (EU) 2016/797 and (EU) 2016/798, as regards the
extension of their transposition periods**

DIRECTIVE (EU) 2020/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**amending Directives (EU) 2016/797 and (EU) 2016/798,
as regards the extension of their transposition periods**

(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 procedure¹,

¹ Position of the European Parliament of 15 May 2020 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) In accordance with Article 57(1) of Directive (EU) 2016/797 of the European Parliament and of the Council¹ and Article 33(1) of Directive (EU) 2016/798 of the European Parliament and of the Council², Member States were to have brought into force the laws, regulations and administrative provisions necessary for them to comply with the relevant provisions of those Directives by 16 June 2019. However, pursuant to Article 57(2) of Directive (EU) 2016/797 and Article 33(2) of Directive (EU) 2016/798, Member States had the possibility to extend the transposition period by one year.
- (2) Seventeen Member States have notified the Commission and the European Union Agency for Railways (the ‘Agency’) of an extension to the transposition deadlines of Directives (EU) 2016/797 and (EU) 2016/798 to 16 June 2020.
- (3) Due to the extraordinary and unforeseeable situation caused by the COVID-19 outbreak, some of those Member States are having difficulties completing the legislative work within the given transposition deadlines and therefore risk failing to comply with them. Such a failure could create legal uncertainty for the rail industry, the national authorities and the Agency as to the legislation that applies to rail safety and interoperability. The inability of certain Member States to transpose Directives (EU) 2016/797 and (EU) 2016/798 as a result of the COVID-19 outbreak has detrimental consequences for the rail sector.

¹ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

² Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

- (4) It is essential to provide legal clarity and certainty to the rail industry by allowing, where relevant, Member States to continue to apply, from 16 June 2020 and for a limited period, Directives 2004/49/EC¹ and 2008/57/EC² of the European Parliament and of the Council.
- (5) Since the COVID-19 outbreak occurred during the final stage of adoption of the national transposition measures of Directives (EU) 2016/797 and (EU) 2016/798, Member States should be allowed an additional period to complete the transposition process.
- (6) The transposition deadlines of Directives (EU) 2016/797 and (EU) 2016/798 should be extended until 31 October 2020. The repeal dates of Directives 2004/49/EC and 2008/57/EC, as set out in Article 58 of Directive (EU) 2016/797 and Article 34 of Directive (EU) 2016/798 respectively, should be adjusted accordingly.
- (7) A number of delegated acts have been adopted on the basis of Directive (EU) 2016/798 reflecting previous transposition deadlines. In view of the current situation, those delegated acts need to be aligned with the new transposition deadline.

¹ 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 Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (OJ L 191, 18.7.2008, p. 1).

- (8) In view of the urgency entailed by the exceptional circumstances caused by the outbreak of COVID-19, it was considered to be 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 (TEU), to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (9) Since the objective of this Directive, namely to amend Directives (EU) 2016/797 and (EU) 2016/798 in view of the COVID-19 outbreak, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale or 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 TEU. 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) Directives (EU) 2016/797 and (EU) 2016/798 should therefore be amended accordingly.
- (11) In order to allow for the prompt application of the measures provided for in this Directive, this Directive 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 DIRECTIVE:

Article 1
Amendment to Directive (EU) 2016/797

Directive (EU) 2016/797 is amended as follows:

(1) in Article 54, paragraph 4 is replaced by the following:

‘4. At the latest from 16 June 2019 the Agency shall carry out the authorisation tasks pursuant to Articles 21 and 24 and the tasks referred to in Article 19 in respect of areas of use in the Member States that have not notified the Agency and the Commission in accordance with Article 57(2). By way of derogation from Articles 21 and 24, national safety authorities of Member States which have notified the Agency and Commission pursuant to Article 57(2) may continue to issue authorisations in accordance with Directive 2008/57/EC until 16 June 2020. By way of derogation from Articles 21 and 24, national safety authorities of Member States which have notified the Agency and Commission pursuant to Article 57(2a) may continue to issue authorisations in accordance with Directive 2008/57/EC until 31 October 2020.’;

(2) in Article 57, the following paragraph is inserted:

‘2a. Member States that have extended the transposition period in accordance with paragraph 2 may further extend it until 31 October 2020. Their transposition measures shall apply from that date. Those Member States shall notify the Agency and the Commission thereof by... [one day following the date of entry into force of this amending Directive...].’;

- (3) in the first paragraph of Article 58, the date ‘16 June 2020’ is replaced by ‘31 October 2020’.

Article 2

Amendment to Directive (EU) 2016/798

Directive (EU) 2016/798 is amended as follows:

- (1) the following Article is inserted:

‘Article 6a

Alignment of CSMs with revised deadlines

The Commission shall be empowered to adopt delegated acts in accordance with Article 27 to align the application dates of delegated acts adopted under Article 6(6) with the transposition deadline set out in Article 33(2a). The procedure provided for in Article 27a shall apply to delegated acts adopted pursuant to this Article.’;

- (2) in Article 27, the following paragraph is added:

‘7. The power to adopt delegated acts referred to in Article 6a shall be conferred on the Commission from... [date of entry into force of this amending Directive] to 31 October 2020.’;

(3) the following Article is inserted:

‘Article 27a

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 27(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.’;

- (4) in Article 31, paragraph 3 is replaced by the following:
- ‘3. At the latest from 16 June 2019 the Agency shall carry out the certification tasks pursuant to Article 10 in respect of areas of operation in the Member States that have not notified the Agency or the Commission in accordance with Article 33(2). By way of derogation from Article 10, national safety authorities of the Member States which have notified the Agency and the Commission pursuant to Article 33(2) may continue to issue certificates in accordance with Directive 2004/49/EC until 16 June 2020. By way of derogation from Article 10, national safety authorities of the Member States which have notified the Agency and the Commission pursuant to Article 33(2a) may continue to issue certificates in accordance with Directive 2004/49/EC until 31 October 2020.’;
- (5) in Article 33, the following paragraph is inserted:
- ‘2a. Member States that have extended the transposition period in accordance with paragraph 2 may further extend it until 31 October 2020. Their transposition measures shall apply from that date. Those Member States shall notify the Agency and the Commission thereof by... [one day following the date of the entry into force of this amending Directive].’;
- (6) in the first paragraph of Article 34, the date ‘16 June 2020’ is replaced by ‘31 October 2020’.

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 Brussels,

For the European Parliament
The President

For the Council
The President
