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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	27 November 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 782 final
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 cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link

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Delegations will find attached document COM(2020) 782 final.

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Encl.: COM(2020) 782 final



Brussels, 27.11.2020  
COM(2020) 782 final

2020/0347 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on certain aspects of railway safety and connectivity with regard to the cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

Since 1 February 2020, the United Kingdom has withdrawn from the Union pursuant to Article 50 of the Treaty on European Union. The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>1</sup> ('the Withdrawal Agreement') was concluded by the Union by Council Decision (EU) 2020/135<sup>2</sup> and entered into force on 1 February 2020. The transition period referred to in Article 126 of the Withdrawal Agreement, during which Union law continues to apply to and in the United Kingdom in accordance with Article 127 of that agreement, ends on 31 December 2020.

Article 10 of the Treaty between the French Republic and the United Kingdom concerning the construction and operation by private concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 ('the Treaty of Canterbury') established an Intergovernmental Commission to supervise all matters concerning the construction and operation of the Channel Fixed Link. Until the end of the transition period provided for in the Withdrawal Agreement ('transition period'), the Intergovernmental Commission constitutes the National Safety Authority within the meaning of Directive (EU) 2016/798 of the European Parliament and of the Council<sup>3</sup>. In that capacity, it applies in the entirety of the Channel Fixed Link the provisions of Union law relevant to railway safety and interoperability.

After the end of the transition period, unless otherwise provided, Union law will no longer be applicable to the part of the Channel Fixed Link under the jurisdiction of the United Kingdom and, as regards the part of the Channel Fixed Link under French jurisdiction, the Intergovernmental Commission will no longer be a national safety authority under Union law. The safety authorisations for the Channel Fixed Link infrastructure manager and safety certificates for railway undertakings operating through the Fixed Link issued by the Intergovernmental Commission will no longer be valid.

By Decision (EU) 2020/1531 of the European Parliament and of the Council<sup>4</sup>, France was empowered to negotiate, sign and conclude an international agreement with the United Kingdom regarding the application of the railway safety and interoperability rules of the Union to the Channel Fixed Link, with the aim of maintaining a unified safety regime. However, it is unlikely that such agreement will enter into force by the end of the transition period.

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<sup>1</sup> OJ L 29, 31.1.2020, p. 7.

<sup>2</sup> Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

<sup>3</sup> 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.

<sup>4</sup> Decision (EU) 2020/1531 of the European Parliament and of the Council of 21 October 2020 empowering France to negotiate, sign and conclude an international agreement supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the construction and operation by private concessionaires of a Channel Fixed Link, OJ L 352, 22.10.2020, p. 4.

In the light of the economic importance of the Channel Fixed Link to the Union, it is essential that the Channel Fixed Link continue to operate after 1 January 2021. For this purpose, the safety authorisation issued to its infrastructure manager by the Intergovernmental Commission on the basis of Directive 2004/49/EC<sup>5</sup> should remain valid for a period of two months after the end of the transition period set in the Withdrawal Agreement. This is the period of time which the French authorities consider to be needed in order to give enough time to the French National Safety Authority to issue its own authorisation for the section of the Channel Fixed Link under French jurisdiction. The Commission considers this to be the maximum extension that should reasonably be granted for that purpose. If an agreement as contemplated by Decision (EU) 2020/1531 is concluded at a later stage, the Intergovernmental Commission could issue a single safety authorisation replacing the one issued by the French National Safety Authority, on conditions that would have to be established.

Moreover, the licences issued by the United Kingdom under Directive 2012/34/EU to railway undertakings established in its territory before the end of the transition period will not be valid in the Union after that date.

On 10 November 2020, pursuant to Article 14(3) of Directive 2012/34/EU of the European Parliament and of the Council,<sup>6</sup> the French Republic notified the Commission of its intention to enter into negotiations on a cross-border agreement with the United Kingdom. The objective of this agreement would be to allow rail undertakings established and holding a licence issued by the United Kingdom to use the cross-border infrastructure linking the Union and the United Kingdom through the Channel fixed link until the border-crossing station and terminal of Calais-Fréthun, without obtaining a licence under Directive 2012/34/EU from a Union licensing authority.

In order to ensure connectivity between the Union and the United Kingdom, it is essential that the railway undertakings continue to operate until the border-crossing station of Calais-Fréthun. To that end, the period of validity of their licences issued by the United Kingdom under Directive 2012/34/EU and of their safety certificates issued by the Intergovernmental Commission should be extended for a period of nine months from the date of application of this Regulation. This is the period of time requested by the French authorities. This extension would give enough time for the negotiation and conclusion of a cross border agreement between France and the United Kingdom under Article 14 of Directive 2012/34/EU and of an agreement as contemplated by Decision (EU) 2020/1531 and for taking any other measures foreseen by Union law that will be required to avoid disruptions. This period would fully allow these procedures to be finalised, therefore the Commission considers it to be the maximum extension that can reasonably be granted. If the bilateral negotiations are not concluded in time, the railway undertakings in question will have to obtain an EU licence under Directive 2012/34/EU by the date this Regulation ceases to apply.

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<sup>5</sup> Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railway 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, OJ L 164, 30.4.2004, p. 44.

<sup>6</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, OJ L 343, 14.12.2012, p. 32

- **Consistency with existing policy provisions in the policy area**

This proposal is intended as a *lex specialis* that would address some of the consequences ensuing from the fact that Union law will no longer apply to the United Kingdom and that unless otherwise provided, the certificates and authorisations issued by the Intergovernmental Commission will cease to be valid under Union law at the end of the transition period. The same applies to the operating licenses issued by the licensing authority of the United Kingdom. The proposed terms are strictly limited to what is necessary in this respect, so as to avoid disruptions of cross-border operations. They are also intended to apply only for a limited period of time. The general provisions of those acts will otherwise continue to apply. This proposal is thus fully consistent with the existing legislation.

- **Consistency with other Union policies**

The proposal concerns railway safety and connectivity, complementing Directive (EU) 2016/798, which replaced Directive 2004/49/EC, as well as Directive 2012/34/EU. The intention is to ensure continuity of the cross-border rail services with the United Kingdom after the end of transition period.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis is Article 91(1) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

As the proposal complements existing Union law, with provisions facilitating their orderly application following the withdrawal of the United Kingdom from the Union, its objective can only be achieved through an act at the level of the Union.

- **Proportionality**

The proposed Regulation is considered proportionate, as it is capable of avoiding disruptions through providing for a limited and necessary legal change, which covers the need to ensure continuity of the cross-border rail services with the United Kingdom. It does not go beyond what is necessary to achieve this objective and it refrains from any broader changes or any permanent measures.

- **Choice of the instrument**

This proposal contains a limited set of provisions to address a very specific and one-off situation. Therefore, it is not appropriate to amend Directive (EU) 2016/798 and Directive 2012/34/EU. This form also best responds to the urgency of the situation/context, since the time available before the end of the transition period is too short to allow for a transposition of provisions contained in a Directive.

Taking this into consideration a regulation of the European Parliament and Council appears to be the only adequate form of legal act.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

This is not applicable due to the exceptional, temporary and one-off nature of the event necessitating this proposal.

- **Stakeholder consultations**

The challenges arising from the end of the transition period set in the Withdrawal Agreement, the need to prepare for inevitable changes on 1 January 2021 and possible additional measures to be envisaged have been discussed with the Member States representatives and the concerned stakeholders in the context of specific meetings.

A common theme in the presented views was the need for a regulatory intervention in order to ensure continuity of operations in the Channel Fixed Link once Union law would cease to apply to the United Kingdom.

- **Collection and use of expertise**

This information has been subject to in-house legal and technical analysis to ensure the proposed measure achieves its intended purpose, but is at the same time limited to what is strictly necessary.

- **Impact assessment**

An impact assessment is not needed, due to the exceptional nature of the situation and the short-term nature of the proposed measure. No materially and legally different policy options are available other than the one proposed.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The proposal has no impact on the application or protection of fundamental rights.

### **4. BUDGETARY IMPLICATIONS**

Not applicable.

### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable due to the short-term nature of the proposed measure.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The proposed Regulation (Article 1) applies to:

- (a) safety authorisations issued by the Intergovernmental Commission under Article 11 of Directive 2004/49/EC to the infrastructure manager of the Channel Fixed Link;

- (b) safety certificates issued by the Intergovernmental Commission under Article 10 of Directive 2004/49/EC to railway undertakings established in the United Kingdom and using the Channel Fixed Link.
- (c) licences issued under Chapter III of Directive 2012/34/EU to railway undertakings established in the United Kingdom and using the cross-border infrastructure linking the Union and the United Kingdom through the Channel tunnel.

Article 3 extends the validity of safety authorisations of the infrastructure manager by a period of two months and of the safety certificates and of the licences of the railway undertakings by a period of nine months. It also extends the validity of operating licenses issued under Directive 2012/34/EU for a period of nine months. It confines the validity of licenses thus extended to the territory situated between the border-crossing station and terminal referred to in the Annex to this Regulation and the United Kingdom.

Article 4 provides that these authorisations, certificates and licences are subject to Directive (EU) 2016/798 and Directive 2012/34/EU respectively and requires their holders of to cooperate with the French National Safety Authority and licensing authority and provide the necessary information. Under Article 5, the French National Safety Authority and licensing authority must monitor that the holders of these authorisations, certificates and licences comply with Union law.

Moreover, implementing powers are conferred on the Commission as regards the withdrawal of the benefit conferred on the holders of the certificates, authorisations and licences in question, where compliance with the Union requirements is not ensured.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on certain aspects of railway safety and connectivity with regard to the cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link**

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<sup>7</sup>,

After consulting the Committee of the Regions<sup>8</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(1)</sup>,

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community (“Withdrawal Agreement”) was concluded by the Union by Council Decision (EU) 2020/135 and entered into force on 1 February 2020. The transition period referred to in Article 126 of the Withdrawal Agreement, during which Union law continues to apply to and in the United Kingdom in accordance with Article 127 of that agreement, ends on 31 December 2020.
- (2) Article 10 of the Treaty between the French Republic and the United Kingdom of Great Britain and Northern Ireland concerning the construction and operation by private concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 (“the Treaty of Canterbury”) established an Intergovernmental Commission to supervise all matters concerning the construction and operation of the Channel Fixed Link.
- (3) Until the end of the transition period provided for in the Withdrawal Agreement, the Intergovernmental Commission constitutes the national safety authority within the meaning of Directive (EU) 2016/798 of the European Parliament and of the Council.<sup>9</sup> In that capacity, it applies in the entirety of the Channel Fixed Link the provisions of

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<sup>7</sup> OJ C , , p. .

<sup>8</sup> OJ C , , p. .

<sup>9</sup> 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.

Union law relevant to railway safety and, under Directive (EU) 2016/797<sup>10</sup> of the European Parliament and of the Council, railway interoperability.

- (4) After the end of the transition period, unless otherwise provided, Union law would no longer be applicable to the part of the Channel Fixed Link under the jurisdiction of the United Kingdom and, as regards the part of the Channel Fixed Link under French jurisdiction, the Intergovernmental Commission would no longer be a national safety authority under Union law. The safety authorisation for the Channel Fixed Link infrastructure manager and safety certificates for railway undertakings operating through the Channel Fixed Link issued by the Intergovernmental Commission pursuant to Articles 11 and Article 10 respectively of Directive 2004/49/EC of the European Parliament and of the Council<sup>11</sup> would cease to be valid from 1 January 2021.
- (5) By Decision (EU) 2020/1531 of the European Parliament and of the Council<sup>12</sup>, France was empowered to negotiate, sign and conclude an international agreement with the United Kingdom regarding the application of the railway safety and interoperability rules of the Union to the Channel Fixed Link in order to maintain a unified safety regime. Through Regulation (EU) 2020/1530 of the European Parliament and of the Council<sup>13</sup>, Directive (EU) 2016/798 has been amended notably as regards the rules pertaining to national safety authorities.
- (6) On the basis of these amendments and subject to an agreement as contemplated by Decision (EU) 2020/1531, and under certain conditions, the Intergovernmental Commission could remain the single safety authority for the entirety of the Channel Fixed Link while constituting, as regards the part of the Channel Fixed Link under French jurisdiction, the national safety authority within the meaning of Article 3, point (7) of Directive (EU) 2016/798. However, it is unlikely that an agreement as contemplated in Decision (EU) 2020/1531 will have entered into force by the end of the transition period.
- (7) Without such an agreement, as from 1 January 2021, the Intergovernmental Commission will no longer qualify as national safety authority within the meaning of Article 3 point (7) of Directive (EU) 2016/798, as regards the part of the Channel Fixed Link under French jurisdiction. Safety authorisations and safety certificates issued by the Intergovernmental Commission will cease to be valid. The French national safety authority will become the competent national safety authority for the section of the Channel Fixed Link under French jurisdiction.

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<sup>10</sup> 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.

<sup>11</sup> Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railway 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, OJ L 164, 30.4.2004, p. 44.

<sup>12</sup> Decision (EU) 2020/1531 of the European Parliament and of the Council of 21 October 2020 empowering France to negotiate, sign and conclude an international agreement supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the construction and operation by private concessionaires of a Channel Fixed Link, OJ L 352, 22.10.2020, p. 4.

<sup>13</sup> Regulation (EU) 2020/1530 of the European Parliament and of the Council of 21 October 2020 amending Directive (EU) 2016/798, as regards the application of railway safety and interoperability rules within the Channel Fixed Link, OJ L 352, 22.10.2020, p. 1.

- (8) In the light of the economic importance of the Channel Fixed Link to the Union, it is essential that the Channel Fixed Link continues to operate after 1 January 2021. To that end, the safety authorisation issued by the Intergovernmental Commission and referred to in recital 4 should remain valid for a maximum period of two months from the date of application of this Regulation, which suffices to enable the French national safety authority to issue its own safety authorisation.
- (9) The licences issued under Chapter III of Directive 2012/34/EU to railway undertakings established in the United Kingdom will no longer be valid at the end of the transition period. On 10 November 2020, pursuant to Article 14(3) of Directive 2012/34/EU of the European Parliament and of the Council,<sup>14</sup> France notified the Commission of its intention to enter into negotiations on a cross-border agreement with the United Kingdom. The objective of this agreement would be to allow rail undertakings established and licenced in the United Kingdom to use the cross-border infrastructure linking the Union and the United Kingdom through the Channel fixed link until the border-crossing station and terminal of Calais-Fréthun, without obtaining a licence under Directive 2012/34/EU from a Union licensing authority.
- (10) In order to ensure the connectivity between the Union and the United Kingdom, it is essential that the rail undertakings referred to in recital 9 continue to operate. To that end, the period of validity of their licences issued by the United Kingdom under Directive 2012/34/EU and of their safety certificates issued by the Intergovernmental Commission should be extended for a period of nine months from the date of application of this Regulation, which suffices for enabling the Member States concerned to take the necessary steps to ensure connectivity in accordance with Directive 2012/34/EU, Directive (EU) 2016/798 and on the basis of an agreement as contemplated by Decision (EU) 2020/1531, as the case may be.
- (11) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the withdrawal of the benefit conferred on holders of the certificates authorisations and licences, where compliance with the Union requirements is not ensured. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(6)</sup>. The examination procedure should be used for the adoption of those measures, given their potential impact on railway safety. The Commission should adopt immediately applicable implementing acts where, in duly justified cases, imperative grounds of urgency so require.
- (12) In view of the urgency entailed by the end of the transition period referred to above, it is 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 Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.
- (13) Since the objective of this Regulation, namely to lay down provisional measures on certain aspects of railway safety and connectivity with regard to the end of the transitional period referred to in recital 1, cannot be sufficiently achieved by the Member States but 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

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<sup>14</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, OJ L 343, 14.12.2012, p. 32

with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

- (14) The provisions of this Regulation should enter into force as a matter of urgency and should apply from the day following the end of the transitional period,

HAVE ADOPTED THIS REGULATION:

### *Article 1*

#### **Subject matter and scope**

1. This Regulation lays down specific provisions, in view of the end of the transition period referred to in Article 126 of the Withdrawal Agreement, for certain safety certificates and safety authorisations issued under Directive 2004/49/EC and certain licences of railway undertakings issued under Directive 2012/34/EU, referred to in paragraph 2.
2. This Regulation shall apply to the following certificates, authorisations and licences, which are valid on 31 December 2020:
  - (a) safety authorisations issued under Article 11 of Directive 2004/49/EC to infrastructure managers for the management and operation of cross-border infrastructure linking the Union and the United Kingdom through the Channel tunnel;
  - (b) safety certificates issued under Article 10 of Directive 2004/49/EC to railway undertakings established in the United Kingdom and using the cross-border infrastructure linking the Union and the United Kingdom through the Channel tunnel;
  - (c) licences issued under Chapter III of Directive 2012/34/EU to railway undertakings established in the United Kingdom and using the cross-border infrastructure linking the Union and the United Kingdom through the Channel tunnel.

### *Article 2*

#### **Definitions**

For the purposes of this Regulation, the corresponding definitions in Directive 2012/34/EU and Directive (EU) 2016/798 and the delegated and implementing acts adopted under those Directives and under Directive 2004/49/EC shall apply.

### *Article 3*

#### **Validity of safety authorisations, safety certificates and operating licences**

1. The safety authorisations referred to in point (a) of Article 1(2) shall remain valid for two months from the date of application of this Regulation.
2. The safety certificates referred to in point (b) of Article 1(2) shall remain valid for nine months from the date of application of this Regulation. They shall be valid only for the purpose of reaching the border crossing station and terminal referred to in the Annex to this Regulation from the United Kingdom or departing from those stations and terminals to the United Kingdom.

3. Licences referred to in point (c) of Article 1(2) shall remain valid for nine months from the date of application of this Regulation. By derogation from Article 23(1) of Directive 2012/34/EU, those licences shall be valid only on the territory situated between the border-crossing station and terminal referred to in the Annex to this Regulation and the United Kingdom.

#### *Article 4*

##### **Rules and obligations regarding safety certificates and safety authorisations**

1. Safety certificates, safety authorisations and licences governed by Article 3 of this Regulation are subject to the rules applicable to them in accordance with Directive 2012/34/EU and Directive (EU) 2016/798 and in accordance with the implementing and delegated acts adopted under those Directives.
2. The holders of safety certificates, safety authorisations and licences referred to in Article 1(2), and, as appropriate, the authority issuing them when different from the National Safety Authority in whose territory the infrastructure is situated in the Union and under whose competence the border-crossing station and terminal listed in the Annex fall shall cooperate with that National Safety Authority and deliver to it all relevant information and documents.
3. Where information or documents have not been delivered within the time limits set in requests made by the National Safety Authority referred to in paragraph 2 of this Article, the Commission may, upon notification by the National Safety Authority, adopt implementing acts to withdraw the benefit conferred on the holder pursuant to Article 3. Those implementing acts shall be adopted in accordance with examination procedure referred to in Article 7(2).
4. Holders of safety certificates, safety authorisations and licences referred to in Article 1(2) of this Regulation shall inform without delay the Commission and the European Union Agency for Railways of any actions by other competent safety authorities, which may conflict with their obligations under this Regulation, Directive 2012/34/EU or Directive (EU) 2016/798.
5. Before withdrawing the benefits conferred pursuant to Article 3, the Commission shall in due time inform the National Safety Authority referred to in paragraph 2 of this Article, the authority having issued the safety certificates, safety authorisations and licences referred to in Article 1(2), and the holders of such certificates, authorisations and licences of its intention to proceed to such withdrawal and shall provide them with the opportunity to make their views known.
6. As regards the licences referred to in point (c) of Article 1(2), for the purposes of paragraphs (1) to (5) of this Article, references to a National Safety Authority shall be understood as references to a licencing authority defined in point (15) of Article 3 of Directive 2012/34/EU.

#### *Article 5*

##### **Monitoring compliance with Union law**

1. The National Safety Authority referred to in Article 4(2) shall monitor the railway safety standards applied to railway undertakings using the cross-border infrastructure referred to in point (a) of Article 1(2), and applied to that cross-border infrastructure. In addition, the National Safety Authority shall check that infrastructure managers

and railway undertakings comply with the safety requirements set out in Union law. Where appropriate, the National Safety Authority shall provide the Commission and the European Union Agency for Railways with a recommendation for the Commission to act in accordance with paragraph 2 of this Article.

The licencing authority referred to in Article 4(2), in conjunction with (6), of this Regulation shall monitor whether the requirements of Articles 19 to 22 of Directive 2012/34/EU continue to be met in relation to railway undertakings licenced by the United Kingdom referred to in point (c) of Article 1(2) of this Regulation.

2. Where the Commission has justified doubts that the safety standards applied to the operation of cross-border railway services or infrastructure falling within the scope of this Regulation or the part of the same infrastructure that is situated in the United Kingdom are in line with the relevant provisions of Union law, it shall without undue delay, adopt implementing acts to withdraw the benefit conferred on the holder pursuant to Article 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 7(2). This shall apply *mutatis mutandis* where the Commission has justified doubts in respect of the fulfilment of the requirements referred to in the second subparagraph of paragraph 1.
3. For the purposes of paragraph 1 of this Article, the National Safety Authority or the licensing authority referred to in Article 4(2) in conjunction with (6), may request information from the relevant competent authorities, setting a reasonable time limit. Where those relevant competent authorities do not provide the information requested within the established time limit, or provide incomplete information, the Commission may, upon notification of the National Safety Authority or licencing authority referred to in Article 4(2) in conjunction with (6) as appropriate, adopt implementing acts to withdraw the benefit conferred on the holder pursuant to Article 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 7(2).
4. Before withdrawing the benefits conferred pursuant to Article 3, the Commission shall in due time inform the National Safety Authority referred to in Article 4(2), the authority having issued the safety certificates, safety authorisations and licences referred to in Article 1(2), the holders of such certificates, authorisations and licences as well as the National Safety Authority and the licensing authority of the United Kingdom of its intention to proceed to such withdrawal and provide them with the opportunity to make their views known.

#### *Article 6*

#### **Consultation and cooperation**

1. The competent authorities of the Member States shall consult and cooperate with the competent authorities of the United Kingdom as necessary in order to ensure the implementation of this Regulation.
2. Upon request, Member States shall provide the Commission without undue delay with any information obtained pursuant to paragraph 1 or any other information relevant for the implementation of this Regulation.

#### *Article 7*

#### **Committee**

1. The Commission shall be assisted by the committee referred to in Article 51 of Directive (EU) 2016/797 of the Parliament and the Council <sup>(7)</sup> and by the committee referred to in Article 62 of Directive 2012/34/EU. Those committees shall be committees within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

*Article 8*

**Entry into force and application**

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from 1 January 2021.
3. This Regulation shall cease to apply from 1 October 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*



Brussels, 27.11.2020  
COM(2020) 782 final

ANNEX

**ANNEX**

**to the**

**Proposal for a Regulation of the European Parliament and of the Council  
on certain aspects of railway safety and connectivity with regard to the cross-border  
infrastructure linking the Union and the United Kingdom through the Channel Fixed  
Link**

**ANNEX**

The border-crossing station and terminal referred to in Articles 3 and 4 are the following:

**FRANCE**

Calais-Fréthun