Empowering France to negotiate an agreement supplementing its existing bilateral Treaty with the United Kingdom concerning the construction and operation by private concessionaires of a Channel Fixed Link

2020/0160(COD) - 27/07/2020 - Legislative proposal

PURPOSE: to empower France to negotiate an agreement supplementing its existing bilateral Treaty with the United Kingdom concerning the construction and operation by private concessionaires of a Channel Fixed Link.

PROPOSED ACT: Decision of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the construction and operation by concessionnaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 established an Intergovernmental Commission to supervise all matters concerning the construction and operation of the Channel Fixed Link.

After the end of the transitional period set out in the agreement on the withdrawal of the UK from the EU, the Intergovernmental Commission shall constitute a body established by a Member State and a third country and shall therefore cease to be the national safety authority within the meaning of the EU Railway Safety Directive 2016/798 for the Channel Fixed Link. From the same date, EU law shall no longer be applicable to the part of the Channel Fixed Link under the jurisdiction of the United Kingdom.

Considering the special position of the Channel Fixed Link as a railway link involving a single, complex engineering structure situated partly in the territory of France and of a third country respectively, it is appropriate to authorise France to enter into an international agreement with the United Kingdom regarding the application of the railway safety rules of the Union to the Channel Fixed Link in order to maintain a unified safety regime in the whole Tunnel, provided that certain requirements are fulfilled.

To this end, a proposal for a Regulation amending Directive (EU) 2016/798 on railway safety is also being presented in parallel by the Commission.

CONTENT: following a request submitted by France on 16 July 2020, this proposal aims to authorise France to negotiate an international agreement supplementing the Treaty of Canterbury with the United Kingdom to ensure the safe and efficient operation of the Channel Fixed Link by maintaining a single safety authority responsible for the whole infrastructure, and to define the specific requirements that the proposed agreement must meet, such as the obligation for the Intergovernmental Commission to apply EU rules on railway safety and interoperability.

The Intergovernmental Commission established by the Treaty of Canterbury shall therefore remain the single safety authority and shall continue to apply Union rules on railway safety. The aim is to ensure that the Intergovernmental Commission applies Union law on the whole of the Channel Fixed Link, including in its section under the jurisdiction of the United Kingdom.

In accordance with the Treaty of Canterbury, disputes between France and the United Kingdom concerning the interpretation or application of the Treaty of Canterbury shall be settled by an arbitration tribunal. Where such disputes raise questions relating to the interpretation of Union law, the arbitral tribunal should, in order to ensure the correct application of Union law, refer the matter to the Court of Justice of the European Union and defer to its decision.