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*Plenary sitting*

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**A9-0018/2024**

30.1.2024

**\*\*\*I**  
**REPORT**

on the proposal for a decision of the European Parliament and of the Council empowering the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link  
(COM(2023)0328 – C9-0205/2023 – 2023/0192(COD))

Committee on Transport and Tourism

Rapporteur: Petar Vitanov

(Simplified procedure – Rule 52(2) of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a decision of the European Parliament and of the Council empowering the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link**

**(COM(2023)0328 – C9-0205/2023 – 2023/0192(COD))**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0328),
  - having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0205/2023),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union, having regard to the opinion of the European Economic and Social Committee of 20 September 2019<sup>1</sup>, – after consulting the Committee of the Regions,
  - having regard to Rules 52, 59 and 40 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism (A9-0018/2024),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a decision**

#### **Citation 1**

*Text proposed by the Commission*

*Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in

Having regard to the Treaty on the Functioning of the European Union, and in

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<sup>1</sup> OJ C, 2023/879, 8.12.2023, ELI: <http://data.europa.eu/eli/C/2023/879/oj>.

particular Article 2(1) and Article 91 thereof,

particular Article 91 thereof,

## Amendment 2

### Proposal for a decision

#### Recital 4

*Text proposed by the Commission*

(4) ***Because*** the negotiations under the conditions laid down in that decision ***have so far not led*** to an agreement satisfactory for both Parties, by letter of 23 March 2023 the French Republic manifested its intention to negotiate and conclude a different agreement.

*Amendment*

(4) ***It has become clear from*** the negotiations ***between France and the United Kingdom that an agreement*** under the conditions laid down in that decision ***will not lead*** to an agreement satisfactory for both Parties. ***Hence***, by letter of 23 March 2023 the French Republic manifested its intention to negotiate and conclude a different agreement. ***An alternative empowerment is therefore being proposed.***

## Amendment 3

### Proposal for a decision

#### Recital 5

*Text proposed by the Commission*

(5) An international agreement with a third country on railway safety and interoperability in cross-border situations is liable to affect an area covered to a large extent by Union law, and in particular by Directives (EU) 2016/798<sup>9</sup> and (EU) 2016/797 and Regulation (EU) 2016/796 of the European Parliament and the Council. Therefore, any such agreement falls within the Union's exclusive external competence. Member States may negotiate ***and*** conclude ***such*** agreement only if empowered to do so by the Union in accordance with Article 2(1) of the Treaty on the Functioning of the European Union (TFEU). Since the agreement concerns areas covered by existing Union law in the area of transport, it is necessary ***that*** such

*Amendment*

(5) An international agreement with a third country on railway safety and interoperability in cross-border situations is liable to affect an area covered to a large extent by Union law, and in particular by Directives (EU) 2016/798<sup>9</sup> and (EU) 2016/797 and Regulation (EU) 2016/796 of the European Parliament and the Council. Therefore, any such agreement falls within the Union's exclusive external competence. Member States may negotiate, ***or*** conclude, ***such an*** agreement only if empowered to do so by the Union in accordance with Article 2(1) of the Treaty on the Functioning of the European Union (TFEU). Since the agreement concerns areas covered by existing Union law in the area of transport, it is ***also*** necessary ***for***

empowerment be granted by the Union legislator, in accordance with the legislative procedure referred to in Article 91 TFEU.

such empowerment **to** be granted by the Union legislator, in accordance with the legislative procedure referred to in Article 91 TFEU.

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<sup>9</sup> Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast), OJ L 138 26.5.2016, p. 102

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<sup>9</sup> Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast), OJ L 138 26.5.2016, p. 102.

#### Amendment 4

##### Proposal for a decision

##### Recital 6

###### *Text proposed by the Commission*

(6) Considering the **uniqueness** of the Channel Fixed Link as a railway link involving a single, complex engineering structure situated partly in the territory of the French Republic and partly in a third country, it is appropriate to **authorise the French Republic** to negotiate, sign and conclude an international agreement with the United Kingdom **to ensure** the application of coherent rules on safety and interoperability in the Channel Fixed Link, as well as to ensure the cooperation between the French national safety authority, namely the Etablissement Public de Sécurité Ferroviaire ('EPSF') and the United Kingdom's national safety authority, namely the Office of Rail and Road ('ORR').

###### *Amendment*

(6) 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 the French Republic and partly in a third country, it is appropriate to **empower France** to negotiate, sign and conclude an international agreement with the United Kingdom **regarding** the application of coherent rules on safety and interoperability in the Channel Fixed Link, as well as to ensure the cooperation between the French national safety authority, namely the Etablissement Public de Sécurité Ferroviaire ('EPSF') and the United Kingdom's national safety authority, namely the Office of Rail and Road ('ORR').

#### Amendment 5

##### Proposal for a decision

##### Recital 11

###### *Text proposed by the Commission*

(11) In order to account for possible future changes of Union law, in particular

###### *Amendment*

(11) In order to account for possible future changes of Union law, in particular

of Directives (EU) 2016/797 and (EU) 2016/798, the agreement should also provide for rules for its amendment. The Commission should be empowered to authorise the French Republic to amend the agreement in accordance with the amending procedure laid down therein, ***in order to adapt it to*** changes in Union law.

of ***Regulation (EU) 2016/796 and*** Directives (EU) 2016/797 and (EU) 2016/798, the agreement should also provide for rules for its amendment. The Commission should be empowered to authorise the French Republic to amend the agreement in accordance with the amending procedure laid down therein, ***provided that such amendments are limited to adaptations to reflect*** changes in Union law.

## Amendment 6

### Proposal for a decision Recital 12

*Text proposed by the Commission*

(12) ***With a view to future possible developments,*** this empowerment ***should be without prejudice to*** the empowerment granted by the Union in Decision (EU) 2020/1531,

*Amendment*

(12) ***In the interest of the Union, the French Republic should also be empowered to negotiate further amendments to the agreement concluded on the basis of*** this empowerment, ***reflecting the conditions foreseen in Decision (EU) 2020/1531.*** The empowerment granted by the Union in Decision (EU) 2020/1531, ***therefore should remain valid insofar as the agreement concluded on the basis of the present empowerment could be amended to reflect the conditions foreseen in that decision.***

## Amendment 7

### Proposal for a decision Article 1 – paragraph 1

*Text proposed by the Commission*

The French Republic is empowered to negotiate, sign and conclude an international agreement with the United Kingdom on the safety and interoperability requirements in the Channel Fixed Link, as well as cooperation between the EPSF and

*Amendment*

***This Decision hereby sets out the conditions pursuant to which France*** The French Republic is empowered to negotiate, sign and conclude ***and in future amend*** an international agreement with the United Kingdom on the safety and



the ORR ('the agreement').

interoperability requirements in the Channel Fixed Link, as well as cooperation between the EPSF and the ORR ('the agreement').

## Amendment 8

### Proposal for a decision Article 1 – paragraph 2

*Text proposed by the Commission*

*The empowerment is subject to* the conditions set out in Articles 2 and 3 of this Decision.

*Amendment*

*Such agreement shall comply with* the conditions set out in Articles 2 and 3 of this Decision.

## Amendment 9

### Proposal for a decision Article 3 – paragraph 2

*Text proposed by the Commission*

Upon completion of the negotiations, the French Republic shall submit the resulting draft agreement to the Commission. The Commission shall inform the Council and the European Parliament thereof.

*Amendment*

Upon completion of the negotiations, the French Republic shall submit the resulting draft agreement to the Commission. The Commission shall ***immediately*** inform the Council and the European Parliament thereof.

## Amendment 10

### Proposal for a decision Article 3 – paragraph 3

*Text proposed by the Commission*

Within one month from the notification of the draft agreement, the Commission shall adopt a decision as to whether the requirements set out in Article 2 are fulfilled. Where the Commission decides that they are fulfilled, the French Republic may sign and conclude the corresponding agreement.

*Amendment*

Within one month from the notification of the draft agreement, the Commission shall adopt a decision as to whether the requirements set out in Article 2 are fulfilled ***and shall inform the Council and the European Parliament thereof***. Where the Commission decides that they are fulfilled, the French Republic may sign and

conclude the corresponding agreement.

## Amendment 11

### Proposal for a decision Article 5 – paragraph 1

*Text proposed by the Commission*

1. ***Subject to paragraphs 2 and 3 of this article, the*** French Republic is empowered to ***amend*** the agreement, in accordance with the procedure ***to be laid down therein, in order*** to adapt it to future changes in Union law, and in particular to amendments of Regulation (EU) 2016/796 and Directives (EU) 2016/797 and (EU) 2016/798, provided that amendments of that agreement are necessary to ensure the full, correct and expeditious application of Union law in the part of the Channel Fixed Link under its jurisdiction.

*Amendment*

1. French Republic is empowered to ***negotiate amendments to*** the agreement, in accordance with the procedure ***defined in paragraphs [2 and 3] of this Article, provided that such amendments are needed*** to adapt it to future changes in Union law, and in particular to amendments of Regulation (EU) 2016/796 and Directives (EU) 2016/797 and (EU) 2016/798, provided ***also*** that amendments of that agreement are necessary to ensure the full, correct and expeditious application of Union law in the part of the Channel Fixed Link under its jurisdiction.

## Amendment 12

### Proposal for a decision Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. The French Republic shall also be empowered to further negotiate amendments to the agreement, in accordance with the procedure defined in paragraphs [2 and 3] of this Article, so that the agreement complies with the conditions foreseen in Article 1 of Decision (EU) 2020/1531.***

## Amendment 13

### Proposal for a decision Article 5 – paragraph 2

*Text proposed by the Commission*

2. The French Republic shall keep the Commission regularly informed of any negotiations with the United Kingdom concerning amendments to the agreement and, where appropriate, invite the Commission to participate as an observer. The French Republic shall submit the envisaged amendments to the Commission together with an explanatory note. The Commission shall inform the Council and the European Parliament thereof. The French Republic shall provide any additional information on the envisaged amendments that is requested by the Commission.

*Amendment*

2. The French Republic shall keep the Commission regularly informed of any negotiations with the United Kingdom concerning amendments to the agreement and, where appropriate, invite the Commission to participate as an observer. The French Republic shall submit the envisaged amendments to the Commission together with an explanatory note. The Commission shall ***immediately*** inform the Council and the European Parliament thereof. The French Republic shall provide any additional information on the envisaged amendments that is requested by the Commission.

**Amendment 14**

**Proposal for a decision  
Article 5 – paragraph 3**

*Text proposed by the Commission*

3. Within [three] months from the notification of the envisaged amendment and the accompanying explanatory note, the Commission shall adopt a decision as to whether the requirements set out in paragraph 1 and in Article 2 are fulfilled. Where the Commission decides that they are fulfilled, the French Republic may proceed with the amendment of the agreement. A copy of the amended agreement shall be provided to the Commission within one month of the entry into force of the amendment, or, where the amendment is to be applied provisionally, within one month of the beginning of its provisional application.

*Amendment*

3. Within [three] months from the notification of the envisaged amendment and the accompanying explanatory note, the Commission shall adopt a decision as to whether the requirements set out in paragraph 1 and in Article 2 are fulfilled. Where the Commission decides that they are fulfilled, ***the Commission shall inform the Council and the European Parliament of that decision, and*** the French Republic may proceed with the amendment of the agreement. A copy of the amended agreement shall be provided to the Commission within one month of the entry into force of the amendment, or, where the amendment is to be applied provisionally, within one month of the beginning of its provisional application.

## **Amendment 15**

### **Proposal for a decision Article 6 – paragraph 1**

*Text proposed by the Commission*

*This Decision is without prejudice to  
Decision (EU) 2020/1531.*

*Amendment*

*Decision (EU) 2020/1531 remains  
applicable to the extent referred to in  
Article 5(1a).*

## EXPLANATORY STATEMENT

The Channel Fixed Link is a complex cross-border engineering structure between the territory of the European Union and United Kingdom and, especially after Brexit, it needs coherent rail safety and interoperability rules covering its whole length and a close cooperation of the British and French authorities to enforce them. In order to provide for such an environment, in March 2023 France has requested a mandate to negotiate and conclude an international agreement with the UK on the safety and interoperability requirements within the Channel Fixed Link.

The agreement should ensure the primacy of the EU law and the jurisdiction of the Court of Justice within the French part of the tunnel and a possibility of the necessary amendments in case of future changes to the Union law, in particular of Directives (EU) 2016/797 and (EU) 2016/798. As regards the part of the Channel belonging to the UK, the agreement should ensure coherence of the safety and interoperability requirements.

The Commission presented the current proposal to the Transport and Tourism (TRAN) Committee in the European Parliament during its meeting of 19 July 2023. Based on this presentation and following TRAN coordinators' decision of 27 June to task me, as the TRAN standing Rapporteur for the relations with the UK, to draft this report, I propose to approve the Commission proposal with the following amendments, in line with the simplified procedure (Rule 52(2)).

**ANNEX: ENTITIES OR PERSONS  
FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT**

The rapporteur declares under his exclusive responsibility that he did not receive input from any entity or person to be mentioned in this Annex pursuant to Article 8 of Annex I to the Rules of Procedure.

24.1.2024

## OPINION OF THE COMMITTEE ON LEGAL AFFAIRS ON THE LEGAL BASIS

Mrs Karima Delli  
Chair  
Committee on Transport and Tourism  
BRUSSELS

Subject: Opinion on the legal basis of the proposal for a decision of the European Parliament and of the Council empowering the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link (COM(2023)0328 – C9-0205/2023 – 2023/0192(COD))

Dear Madam Chair,

By letter of 13 December 2023<sup>1</sup>, you requested the Committee on Legal Affairs (JURI), pursuant to Rule 40(2) of the Rules of Procedure, to provide an opinion on the appropriateness of the amended legal basis of the Commission’s proposal for a decision empowering the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link (hereinafter “the proposed Decision”).

JURI considered the above question at its meeting of 24 January 2024.

### **I - Background**

The Coordinators of the Committee on Transport and Tourism (TRAN) decided to deal with the proposed Decision under simplified procedure with amendments pursuant to Rule 52(2) of the Rules of Procedure and tasked the TRAN standing Rapporteur for the relations with the United Kingdom to draft the report.

The Commission based the proposed Decision on Article 2(1) and Article 91 of the Treaty on the Functioning of the European Union (TFEU). After the Council indicated that it intends to delete the reference to Article 2(1) TFEU as the legal basis, with the justification that it is not an appropriate legal basis from a technical point of view, the TRAN standing Rapporteur agreed with that position and proposed to do the same.

TRAN therefore requested JURI to assess the appropriateness of the legal basis, in particular the deletion of the reference to Article 2(1) TFEU, pursuant to Rule 40(2) of the Rules of procedure.

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<sup>1</sup> D(2023)42171.

## **II - The relevant Treaty Articles**

Title I of Part one of the Treaty on the Functioning of the European Union, on “Categories and areas of Union competence” reads, inter alia:

### *Article 2*

*1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.*

*2. [...]*

Title VI of Part three of the Treaty on the Functioning of the European Union, on “Transport” reads, inter alia:

### *Article 91*

*(ex Article 71 TEC)*

*1. For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:*

*(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;*

*(b) the conditions under which non-resident carriers may operate transport services within a Member State;*

*(c) measures to improve transport safety;*

*(d) any other appropriate provisions.*

*2. When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.*

## **III – CJEU case law on the choice of legal basis**

The Court of Justice has traditionally viewed the question of the appropriate legal basis as an issue of constitutional significance, guaranteeing compliance with the principle of conferred powers (Article 5 of the Treaty on European Union) and determining the nature and scope of the Union’s competence<sup>2</sup>.

According to well-established case-law, the legal basis of a Union act does not depend on an institution's conviction as to the objective pursued, but must be determined according to objective criteria amenable to judicial review, including in particular the aim and the content

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<sup>2</sup> Opinion 2/00 ("Cartagena Protocol"), ECLI:EU:C:2001:664, paragraph 5.



of the measure<sup>3</sup>. The legal basis for an act must be determined having regard to its own aim and content<sup>4</sup>.

If examination of an act reveals that it pursues a twofold purpose or that it has a twofold component and if one of those is identifiable as the main or predominant purpose or component, whereas the other is merely incidental, that measure must be based on a single legal basis, namely that required by the main or predominant purpose or component<sup>5</sup>. Only exceptionally, if it is established that the act simultaneously pursues a number of objectives, inextricably linked, without one being secondary and indirect in relation to the other, may such an act be founded on the various corresponding legal bases<sup>6</sup>. This would however only be possible if the procedures laid down for the respective legal bases are compatible with and do not undermine the right of the European Parliament<sup>7</sup>.

#### **IV – Aim and content of the proposed Decision**

The Channel Fixed Link is a unique railway link involving a single, complex engineering structure situated partly in the territory of France and partly in a third country, namely the United Kingdom. To ensure the safe and efficient operation of the Channel Fixed Link, France has requested, in March 2023, an empowerment to negotiate and conclude with the United Kingdom an international agreement on the safety and interoperability requirements within the Channel Fixed Link. The proposed Decision would grant that empowerment.

The international agreement would partly transpose the Fourth Railway Package technical pillar for the part of the Channel Fixed Link under the French jurisdiction<sup>8</sup>. The agreement should ensure that the part of the Channel Fixed Link under the French jurisdiction is governed by Union law, with the Court of Justice exclusively competent to interpret that law. As regards the part of the Channel Fixed Link under the United Kingdom's jurisdiction, the agreement should ensure coherence of the safety and interoperability requirements, thereby contributing to safety and interoperability in the Channel Fixed Link.

These aims are reflected in the normative provisions of the proposed Decision, which contain the concrete empowerment to France to negotiate and conclude the agreement (Article 1), a series of conditions the agreement must comply with (Article 2), and a provision that the Commission is to decide whether the draft agreement complies with those conditions (Article 3). Finally, the proposed Decision would empower France to amend the agreement, in accordance with a mechanism to be laid down therein, in order to adapt it to future changes in

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<sup>3</sup> Case C-300/89, *Commission v Council* ("Titanium dioxide"), ECLI:EU:C:1991:244, paragraph 10, Case C-411/06 *Commission v Parliament and Council*, ECLI:EU:C:2009:518, paragraph 45.

<sup>4</sup> Case C-187/93, *Parliament v Council*, ECLI:EU:C:1994:265, paragraph 28. See also Case C-411/06, *Commission v Parliament and Council* ("Shipments of waste"), ECLI:EU:C:2009:518, paragraph 77, and Case C-81/13, *UK v Council*, ECLI:EU:C:2014:2449, paragraph 36.

<sup>5</sup> *Ibid.* paragraph 30 and Case C-137/12, *Commission v Council*, ECLI:EU:C:2013:675, paragraph 53 and case-law cited.

<sup>6</sup> Case C-300/89, paragraphs 13 and 17; Case C-42/97, *Parliament v Council*, ECLI:EU:C:1999:81, paragraph 38; Opinion 2/00, paragraph 23; Case C-94/03, *Commission v Council* ("Rotterdam Convention"), ECLI:EU:C:2006:2 and Case C-178/03, *Commission v Parliament and Council*, ECLI:EU:C:2006:4, paragraphs 36 and 43.

<sup>7</sup> Case C-300/89, paragraphs 17-25; Case C-268/94 *Portugal v Council*, ECLI:EU:C:1996:461.

<sup>8</sup> Directives (EU) 2016/797 and (EU) 2016/798 of the European Parliament and of the Council.

Union law (Article 5).

## **V – Analysis**

The Commission explains in its explanatory memorandum that the agreement should fall within the Union’s exclusive competence: “*An international agreement with a third country on railway safety and interoperability in cross-border situations is liable to affect an area covered to a large extent by Union law [...]. Therefore, any such agreement falls within the Union's exclusive external competence*”. It also refers to Article 2(1) in accordance with which “*Member States may negotiate and conclude such agreement only if empowered to do so by the Union in accordance with Article 2(1) of the Treaty on the Functioning of the European Union*”. The Commission continues by saying that “*Since the agreement concerns areas covered by existing Union law in the area of transport, it is necessary that such empowerment be granted by the Union legislator, in accordance with the legislative procedure referred to in Article 91 TFEU.*” Under the title “Legal basis” of the explanatory memorandum, the Commission merely states that “*The legal basis for this proposal is Articles 2(1) and 91 TFEU.*”

### **(a) The appropriateness of Article 91 TFEU**

Article 91 TFEU provides for legal bases in the field of transport policy for transport by rail, road and inland waterway. The agreement at stake concerns areas covered by existing Union *acquis* in the area of transport. In light of the aim and content of the proposed Decision, it is manifest that the proposal is linked to the functioning of the internal market in the transport sector. Thus, Article 91 TFEU is the appropriate legal basis for the proposal.

### **(b) No possibility to add Article 2(1) TFEU as a legal basis**

Contrary to Article 91 TFEU, Article 2(1) TFEU is not a legal basis. In fact, that provision does not confer any competence on the Union institutions to adopt a legally binding Union act, nor does it contain, or refer to, any procedure to that effect. Therefore, it cannot be used as a legal basis.

Recital 5 of the proposed Decision recalls that the agreement falls under the Union’s exclusive external competence. In areas under such exclusive competence Member States may adopt legally binding acts only if so empowered by the Union, as provided for in Article 2(1) TFEU. However, that does not mean that Article 2(1) TFEU should be added as a legal basis for the actual act of empowerment. In the present case, such empowerment is given via the legislative act adopted under the ordinary legislative procedure in accordance with Article 91 TFEU.

In 2020 France was similarly empowered by Decision (EU) 2020/1531<sup>9</sup> to negotiate an agreement with the United Kingdom that would have ensured the unified and dynamic application of Union law over the entire Channel Fixed Link. It should be recalled that that Decision was also based solely on Article 91 TFEU following a similar assessment of the

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<sup>9</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).

appropriateness of the legal basis.

Lastly, it is worth noting that there are also other similar authorisations empowering a Member State to negotiate agreements with a third country in an area of exclusive external competence of the Union<sup>10</sup>, in which Article 2(1) TFEU does not figure as the legal basis for the act proposed.

## **VI – Conclusion and recommendation**

At its meeting of 24 January 2024 the Committee on Legal Affairs accordingly decided unanimously<sup>11</sup>, to confirm to the Committee on Transport and Tourism that the proposal for a Decision of the European Parliament and of the Council empowering the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link can correctly be based on Article 91 TFEU alone.

Yours sincerely,

Adrián Vázquez Lázara

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<sup>10</sup> Latest example: Proposal for a Decision of the European Parliament and of the Council on an authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation in civil and commercial matters (COM(2023)0065 – 2023/0028(COD)).

<sup>11</sup> The following were present for the final vote: Adrián Vázquez Lázara (Chair); Sergey Lagodinsky (Vice-Chair); Marion Walsmann (Vice-Chair); Raffaele Stancanelli (Vice-Chair); Pascal Arimont, Gunnar Beck; Benoît Biteau (for Marie Toussaint pursuant to Rule 209(7)); Jorge Buxadé Villalba; Ilana Cicurel; Pascal Durand; Christian Ehler (for Juan Ignacio Zoido Álvarez pursuant to Rule 209(7)); Ibán García Del Blanco; Virginie Joron; Pierre Karleskind; Gilles Lebreton; Angelika Niebler; Witold Pahl (for Javier Zarzalejos pursuant to Rule 209(7)); Sabrina Pignedoli; Jiří Pospíšil; Franco Roberti; Nacho Sánchez Amor; Jana Toom; Axel Voss; Tiemo Wölken.

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Empowering the French Republic to negotiate, sign and conclude an international agreement on the safety and interoperability requirements within the Channel Fixed Link
<b>References</b>	COM(2023)0328 – C9-0205/2023 – 2023/0192(COD)
<b>Date submitted to Parliament</b>	20.6.2023
<b>Committee responsible</b> Date announced in plenary	TRAN 10.7.2023
<b>Rapporteurs</b> Date appointed	Petar Vitanov 27.6.2023
<b>Simplified procedure - date of decision</b>	27.6.2023
<b>Legal basis disputed</b> Date of JURI opinion	JURI 24.1.2024
<b>Discussed in committee</b>	19.7.2023
<b>Date adopted</b>	8.1.2024
<b>Date tabled</b>	30.1.2024