

The EU's power grab in the Channel Tunnel must be stopped

*Civil servant **Caroline Bell** shows that Brussels is attempting to overturn agreements on how to govern Channel Tunnel safety. This is yet another attempt to keep the UK subject to EU regulatory control and the ECJ.*

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The power grab

*The EU is working on legislation to ensure the **safe and efficient operation of the Channel Tunnel railway connection** between continental Europe and the United Kingdom (Channel Fixed Link) after the end of the Brexit transition period. Today, the Council's Permanent Representatives Committee agreed on a negotiation mandate on two proposals aimed at maintaining a **single safety authority**, which would continue to apply the **same set of rules** over the whole infrastructure, including in its*

section under UK jurisdiction.

Currently, all matters concerning the operation of the Channel Fixed Link are supervised by an Intergovernmental Commission set up by the Treaty of Canterbury, signed between France and the UK in 1986.

Under the Council mandate, France will be empowered to negotiate an amendment to the Canterbury Treaty and the EU railway safety and interoperability rules will be amended so that the Intergovernmental Commission can be maintained as the safety authority competent for the application of EU law within the Channel Fixed Link.

The draft regulation amending the safety and interoperability provisions will be split into two draft regulations, in order to amend the Statute of the European Court of Justice in a manner that respects the Court's prerogatives while avoiding a delay in the start of the negotiations.

Context

The no-deal position

The Channel Tunnel operates effectively now under the bilateral Intergovernmental Commission established by the

No renegotiation of the treaty is

required to maintain this safety authority after Brexit, since it operates under OTIF's international railway convention, to which the UK, France and the EU are all

signatories technical functional

requirements, standards, interoperability and contracts for carriage by rail.

After the United Kingdom's withdrawal from the European Union, with the IGC no longer designated by two member states but one member state (France) and a non-EU country (the United Kingdom), the IGC would no longer be able to exercise the functions devolved under European law to a national safety authority.

Consequently, for France, the draft decree entrusts the tasks of a national safety authority for the Fixed Link to the *Établissement public de Sécurité ferroviaire* (EPSF Public Institution of Rail Safety). It is worth remembering that the EPSF already carries out these tasks on the national rail network.

Given the specific nature of the cross-Channel Fixed Link and the safety challenges in this type of infrastructure, **the French authorities will ensure that the EPSF's action is closely coordinated with that of the authority the United Kingdom will designate for itself, so**

that rail safety regulation is consistent over the whole infrastructure. This is key to guaranteeing a continued high level of safety for rail traffic in the Fixed Link.

After the end of the transition period, the admission to circulation or use of railway material authorised in the United Kingdom in international traffic in the EU will be governed by COTIF, and in particular the Appendices G

and

F

thereto.

A legal coup?

Caroline Bell is the pen-name of a civil servant