

COMMISSION DECISION (EU) 2021/1363**of 8 July 2021****authorising Finland to apply an extension of certain periods specified in Articles 2, 16 and 17 of Regulation (EU) 2021/267 of the European Parliament and of the Council***(notified under document C(2021) 4976)***(only the English text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2021/267 of the European Parliament and of the Council of 16 February 2021 laying down specific and temporary measures in view of the persistence of the COVID-19 crisis concerning the renewal or extension of certain certificates, licences and authorisations, the postponement of certain periodic checks and periodic training in certain areas of transport legislation and the extension of certain periods referred to in Regulation (EU) 2020/698 ⁽¹⁾, and in particular Article 2(8), Article 9(4), Article 10(4), Article 11(4), Article 12(5), Article 16(4) and Article 17(4) thereof,

Whereas:

- (1) Article 2(1) of Regulation (EU) 2021/267 extends the time limits for the completion, by the holder of a certificate of professional competence ('CPC'), of periodic training which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021. Article 2(3) of that Regulation extends the validity of the corresponding marking of the harmonised Union code, '95'.
- (2) Article 2(5) of Regulation (EU) 2021/267 extends the validity of the driver qualification cards referred to in Annex II to Directive 2003/59/EC of the European Parliament and of the Council ⁽²⁾ which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (3) Article 9(1) of Regulation (EU) 2021/267 extends the time limits for the renewal of the single safety certificates referred to in Article 10(13) of Directive (EU) 2016/798 of the European Parliament and of the Council ⁽³⁾ which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (4) Article 9(2) of Regulation (EU) 2021/267 extends the validity of the safety authorisations referred to in Article 12(2) of Directive (EU) 2016/798 which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (5) Article 10(1) of Regulation (EU) 2021/267 extends the time limits for the renewal of the safety certificates referred to in Article 10(5) of Directive 2004/49/EC of the European Parliament and of the Council ⁽⁴⁾ which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.

⁽¹⁾ OJ L 60, 22.2.2021, p. 1.

⁽²⁾ Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJ L 226, 10.9.2003, p. 4).

⁽³⁾ 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⁾ 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).

- (6) Article 10(2) of Regulation (EU) 2021/267 extends the time limits for the renewal of the safety authorisations referred to in Article 11(2) of Directive 2004/49/EC which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (7) Article 11(1) of Regulation (EU) 2021/267 extends the validity of train drivers' licences which otherwise would have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (8) Article 11(2) of Regulation (EU) 2021/267 extends the time limits for the completion, by the holder of a train driver's licence, of the periodic checks which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (9) Article 12(1) of Regulation (EU) 2021/267 extends the time limits for the performance of a regular review which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (10) Article 12(2) of Regulation (EU) 2021/267 extends the validity of temporary licences which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (11) Article 16(1) of Regulation (EU) 2021/267 extends the time limits for carrying out the periodic review of port facility security assessments which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (12) Article 16(2) of Regulation (EU) 2021/267 extends the 18-month time limits for the carrying out of the various types of exercises referred to in Part B, Sections 13.7 and 18.6, of Annex III to Regulation (EC) No 725/2004 of the European Parliament and of the Council ^(*) which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (13) Article 17(1) of Regulation (EU) 2021/267 extends the time limits for the carrying out of the review of port security assessments and port security plans which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (14) Article 17(2) of Regulation (EU) 2021/267 extends the 18-month time limits for the completion of training exercises which would otherwise have expired or would otherwise expire between 1 September 2020 and 30 June 2021.
- (15) By letter dated 27 May 2021, Finland submitted a reasoned request for an authorisation to apply extensions of certain periods and deadlines specified in Article 2(1), (3) and (5), Article 9(1) and (2), Article 10(1) and (2), Article 11(1) and (2), Article 12(1) and (2), Article 16(1) and (2) and Article 17(1) and (2) of Regulation (EU) 2021/267. Finland provided additional information in support of its request on 1, 7, 10 and 14 June 2021.
- (16) Through its reasoned request, Finland seeks, first, an authorisation to apply an extension of four months of the periods between 1 September 2020 and 30 June 2021 specified in Article 2(1) of Regulation (EU) 2021/267, for the purposes of that provision and of Article 2(3), in Article 2(5), in Article 9(1) and (2), in Article 10(1) and (2), in Article 11(1) and (2), in Article 12(1) and (2), in Article 16(1) and (2) and in Article 17(1) and (2) of that Regulation, and second, an authorisation to apply an extension of four months of the deadlines of 30 September 2021 specified in Article 16(1) and (2) and Article 17(1) and (2) of that Regulation.
- (17) According to the information provided by Finland, the completion of periodic training and its certification, the marking of the harmonised Union code '95' and the renewal of driver qualification cards in Finland, the renewal of single safety certificates, the renewal of safety authorisations, the renewal of licences of train drivers operating locomotives and trains, the completion of the relevant periodic checks, the regular review of railway undertakings, the renewal of temporary licences of railway undertakings, the carrying out of port facility security assessments, the carrying out of the review of port security assessments or port security plans, and the carrying out of the relevant training exercises, is likely to remain impracticable in Finland beyond 30 June 2021, due to measures that it has taken to prevent or contain the spread of COVID-19.

^(*) Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p. 6).

- (18) In particular, the authorities of Finland consider that the epidemic situation cannot be predicted and that it is possible that the situation can worsen. According to this Member State, the situation is still unstable, there are regional differences in how contained the epidemic is, and the COVID-19 infection rates have been rising in the recent past. If the epidemic situation should suddenly worsen in Finland, this could result in challenges in the renewal or extension of certain certificates, licences and authorisations, and in the postponement of certain periodic checks and periodic trainings.
- (19) According to the information provided by Finland, as regards Article 2 of Regulation (EU) 2021/267, the measures that it has taken to prevent or contain the spread of COVID-19 have led to restrictions and cancellations of periodic training courses.
- (20) In particular, the restrictions on assemblies imposed by the Finnish authorities have had, and continue to have, an effect on the organisation of periodic trainings for bus and lorry drivers. Periodic trainings have been carried out as distance learning where the teacher and participants are at different locations. Due to these restrictions, the offering of periodic trainings have been limited.
- (21) Moreover, according to the information provided by Finland, the maximum number of participants allowed in the training courses has varied, depending on the COVID-19 situation, from six to 20 persons, being six the currently applicable rule. Such restrictions have also contributed for the limitation in the number of periodic trainings held in the recent past. According to Finland, several organisations and companies providing periodic training for bus and lorry drivers ceased to make plans for the provision of trainings in 2020-2021, as it was deemed likely that the trainings would have to be cancelled. Therefore, there is a backlog of periodic trainings to be organised.
- (22) In addition, Finland expects an increased demand for periodic trainings once the restrictions are lifted, and the four-month extension requested would allow time for the training providers to adjust their operations. As the COVID-19 situation slowly improves, the transportation volume is expected to increase considerably, while at the same time the periodic trainings that have been postponed will need to be completed. According to Finland, companies will have to coordinate this in a way that does not jeopardise the security of supply or passenger traffic, and this requires time.
- (23) Based on the information provided by Finland, the requested extension of the reference periods in Article 2(1), for the purposes of this provision and of Article 2(3) of Regulation (EU) 2021/267, and in Article 2(5) of that Regulation only concerns a reference period from 1 July 2021 to 31 October 2021, which only covers a limited number of professional drivers. Moreover, the majority of drivers who will benefit from such an extended period of validity have already completed a periodic training at least once, having thereby proven their proficiency and competences. Furthermore, the requested extension concerns a relatively short period of time and it refers only to the reference period set out in Regulation (EU) 2021/267, not to the validity of the concerned documents. The requested extensions should therefore not lead to disproportionate risks in terms of transport safety and security.
- (24) As regards Article 16(1) and (2) and Article 17(1) and (2) of Regulation (EU) 2021/267, concerning maritime and port security, and according to the information provided by Finland, the measures that it has taken to limit the spread of the COVID-19 pandemic have affected periodic inspections and trainings, although it has not prevented them.
- (25) Based on the information provided by that Member State, where on-site inspections have not been possible, the relevant inspections have been carried out remotely. However, the smaller ports have, since the beginning of the pandemic, adopted an operations model in which all visits to the port are either placed on hold, or the number of guests is strictly limited, allowing only 1 to 3 visitors at the same time. The largest cargo and passenger ports – located in Helsinki, Turku and Hamina/Kotka – have adopted a model in which their staff work in two shifts, in order to prevent the transmission of the virus. Such measures result in clear limitations to the access to ports, therefore affecting activities such as the review of port facility security assessments, of port security assessments and of port security plans.

- (26) Also in accordance with the information provided by Finland, in order to ensure the smooth functioning of the ports, it is crucial that the critical staff members at the port are not exposed to the virus and quarantined. Certain duties require presence at the workplace, which cannot be ensured if critical staff members are exposed. Measures limiting the presence of critical staff therefore present difficulties to the carrying out of the review of the aforementioned port facility security assessments, of port security assessments and of port security plans.
- (27) Moreover, following the information transmitted by the authorities of Finland, the more extensive exercises that are organised biannually and require participation from various officials, such as the Finnish Transport and Communications Agency, Customs, Police, and Fire and Rescue Services, have been on hold, also due to measures taken to prevent the spread of COVID-19. Although it is possible to plan such exercises online, preparing for them and carrying out the exercise in a port would pose a significant threat of exposure to the virus, since the number of people involved is significantly high. According to that Member State, the companies with port operations tend to have a very small number of staff, even though their duties are extensive. On average, companies that handle port traffic all year round have an administrative staff of 4-8 persons, and the smallest companies a staff of 1-4 persons. For this reason, each employee is of critical importance to the operations.
- (28) The adoption of new modes of operation, necessitated by the COVID-19 pandemic, have caused significant amounts of extra work, as the operators need to be given guidance on what actions need to be taken when cases of COVID-19 are suspected or reported on vessels. Situations where staff members at a port have been exposed to the virus and quarantined have also posed problems to the companies' operations, as certain duties require presence at the workplace.
- (29) The Finnish authorities estimate that the situation caused by the COVID-19 pandemic should normalise during the next four months, which is a relatively short period. The vaccination roll-out has progressed well, and based on the Finnish Institute of Health and Welfare's estimates, by the end of October 2021 a significant proportion of the population will be fully vaccinated. For these reasons, the authorities of Finland consider that a four-month extension is justified, and that a longer extension is not deemed necessary. In addition, this additional period would allow time for certain operations to recover, and in this way support a return to the pre-pandemic normal situation.
- (30) Finland only requires an extension of the periods between 1 September 2020 and 30 June 2021, and of the applicable deadlines, and not of the periods of 10 months set out in Article 16(2) and in Article 17(1) and (2) of Regulation (EU) 2021/267. Moreover, according to Finland, security exercises can still be carried out, although in a smaller scope or online. The requested extensions should therefore not lead to disproportionate risks in terms of security.
- (31) Finland should therefore be authorised to apply an extension of the periods between 1 September 2020 and 30 June 2021 specified in Article 2(1), for the purposes of this provision and of Article 2(3), in Article 2(5), in Article 16(1) and (2) and in Article 17(1) and (2) of Regulation (EU) 2021/267, and an extension of four months of the deadline of 30 September 2021 specified in Article 16(1) and (2) and Article 17(1) and (2) of that Regulation.
- (32) As regards Article 9(1) and (2), Article 10(1) and (2), Article 11(1) and (2) and Article 12(1) and (2) of Regulation (EU) 2021/267, the authorities of Finland have explained that even though Finland has only very little direct intra-EU international railway traffic (between Tornio/Finland and Haparanda/Sweden), railway freight traffic between Finland and Russia and to and from China is very important, and that railway traffic has shown its resilience during the Covid-19 pandemic. According to the Finnish authorities, the international rail freight volumes have even increased during the pandemic. Therefore, the extension of authorisations of railway traffic is considered by the Finnish authorities as needed.
- (33) According to the information provided by Finland, the Finnish authorities consider necessary to ensure the extension of safety authorisations, as the number of these authorisations is the highest, and as periodic checks are also required.

- (34) The Finnish authorities also informed the Commission that a specific railway company has adopted an operations model that allows demonstrations of competence to be organised in the planned schedule also in exceptional circumstances. This Member State also clarified that it expects very few certificates, licences and authorisations to be renewed or applied between the period of 1 July 2021 and 31 October 2021.
- (35) Despite several requests for specific information and for additional clarifications related to the need for extensions of four months of the periods between 1 September 2020 to 30 June 2021 specified in Article 9(1) and (2), Article 10(1) and (2), Article 11(1) and (2), and Article 12(1) and (2) of Regulation (EU) 2021/267, the Commission has not received the necessary information in order to assess the reasoned request submitted by the Finnish authorities, in accordance with Article 9(4), Article 10(4), Article 11(4) and Article 12(5) of that Regulation.
- (36) The Commission considers that Finland has not provided specific information on the reasons why the renewal of the single safety certificates referred to in Article 9(1) and (2), the renewal of the safety certificates or of the safety authorisations referred to in Article 10(1) and (2), the renewal of the licences or the completion of the periodic checks referred to in Article 11(1) and (2), the carrying out of the regular reviews or the termination of the suspension of licences or the issuance of new licences in cases where licences have previously been revoked as referred to in Article 12(1) and (2) of Regulation (EU) 2021/267 are likely to remain impracticable beyond 30 June 2021, due to measures that Finland has taken to prevent or contain the spread of COVID-19. This Member State also did not provide information on why the requested extensions do not lead to disproportionate risks in terms of rail transport safety and security.
- (37) While Finland has transmitted certain information as regards the measures adopted to limit the spread of the pandemic, which may possibly affect the overall transport sector, this Member State did not provide information on how these measures have specifically affected the renewal of the licences and authorisations or the completion of the activities referred to in Article 9(1) and (2), Article 10(1) and (2), Article 11(1) and (2), and Article 12(1) and (2) of Regulation (EU) 2021/267. In particular, no specific information has been provided regarding the measures affecting the renewal of train driver licences, or the provisions on rail safety. In addition, the Commission has not received any specific information concerning the need to extend the period referred to in Article 12 of Regulation (EU) 2021/267.
- (38) The Commission is not in a position to find that the requirements laid down in those provisions are fulfilled, or that the requested extensions do not lead to disproportionate risks in terms of rail transport safety and security. Therefore, Finland should not be authorised to apply an extension of the periods between 1 September 2020 and 30 June 2021 specified in Article 9(1) and (2), in Article 10(1) and (2), in Article 11(1) and (2), and in Article 12(1) and (2) of Regulation (EU) 2021/267.
- (39) Finland has agreed that this Decision be adopted and notified in English,

HAS ADOPTED THIS DECISION:

Article 1

Finland is authorised to apply the following extensions:

- (a) an extension of four months of the period between 1 September 2020 and 30 June 2021 specified in Article 2(1) of Regulation (EU) 2021/267, for the purposes of Article 2(1) and (3) of that Regulation;
- (b) an extension of four months of the period between 1 September 2020 and 30 June 2021 specified in Article 2(5), Article 16(1) and (2) and Article 17(1) and (2) of that Regulation;
- (c) an extension until 31 January 2022 of the deadline of 30 September 2021 specified in Article 16(1) and (2) and Article 17(1) and (2) of that Regulation.

Article 2

Finland is not authorised to apply an extension of four months of the period between 1 September 2020 and 30 June 2021 specified in Article 9(1) and (2), in Article 10(1) and (2), in Article 11(1) and (2), and in Article 12(1) and (2) of Regulation (EU) 2021/267.

Article 3

This Decision is addressed to the Republic of Finland.

Done at Brussels, 8 July 2021.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission
