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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT
Accompanying the documents
Proposal for a Regulation of the European Parliament and of the Council on the
European Union Agency for Railways and repealing Regulation (EC) No
881/2004

Proposal for a Directive of the European Parliament and of the Council on the
interoperability of the rail system within the European Union (Recast)

Proposal for a Directive of the European Parliament and of the Council on
railway safety (Recast)

Delegations will find attached Commission document SWD(2013) 9 final.

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COMMISSION STAFF WORKING DOCUMENT

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Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004

Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast)

Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast)

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1. PROBLEM DEFINITION

While in some Member States the national railway authorities function in general efficiently, in others they are heavily understaffed and/or the procedures which they manage are long and costly. At the same time, the interoperability and safety requirements, which in principle should have been aligned by common EU rules, still diverge significantly at the national level, creating access barriers, especially for new entrants. This is particularly acute for the freight as rail freight markets have been opened for a number of years. The new entrants are relatively more vulnerable to complexity and delays in procedures as their human and financial resources are often limited.

The existing costly and long procedures, especially to obtain authorisation for a railway vehicle and safety certificate for railway undertaking, are important factors hindering the development of the EU railway market and its efficient functioning. Besides being complicated and slow, these procedures do not guarantee sufficient level of mutual recognition of certificates and authorisations. This negatively affects particularly new companies wishing to enter into the market, thus contributing to a low level of competition and lasting market distortions.

Stakeholders also complained that national railway authorities may use technical arguments and a legacy of diverging and not always transparent national rules as access barriers for new entrants. According to the results of the targeted consultation, new entrants may inter alia face discrimination from National Safety Authorities (NSAs) when applying for safety certificate or during vehicle authorisation processes. Stakeholders reported more specifically that the processes leading to the delivery of safety certificate and vehicle authorisation are not sufficiently harmonised and transparent to prevent arbitrary and discriminative decisions by NSAs.

Notwithstanding its important role in creation of the European railway interoperability and safety legislation, it is evident that currently ERA does not have major control and oversight powers with regard to national railway authorities, infrastructure managers or market players. Its monitoring responsibilities are practically limited to monitoring of safety

performance and of interoperability (through publication of regular reports and collecting and publishing common safety indicators and facilitating cooperation between the NSAs and NIBs).

2. SUBSIDIARITY

Articles 58, 90 and 100 of the Treaty extend to railways the objectives of a genuine internal market in the context of an EU Common Transport Policy.

Actions by Member States alone cannot ensure the coherence of EU railway market and address the divergent interpretation of the legislation, as persistence of national rules and sub-optimal functioning of national institutions, acting as barriers to the internal market, is in fact at the centre of the problem. Action at EU level aims to ensure consistent implementation of the EU rail *acquis*, which should lead to the creation of the Single European Railway Area with no unnecessary administrative and technical barriers.

3. OBJECTIVES

General objective:

Eliminate existing administrative and technical barriers thereby enhancing the competitiveness of rail sector vis-à-vis other modes and developing further the Single European Rail Area.

Specific objectives:

SO1: Facilitate entrance of new operators into market

SO2: Reduce administrative costs of railway undertakings
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Operational objectives:

OO1: Increase the efficiency of the safety certification and vehicle authorisation processes
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OO2: Ensure non-discrimination in the granting and recognition of safety certificates and interoperability authorisations across the EU

OO3: Increase the coherence of the national legal frameworks, notably related to the safety and interoperability aspects of the internal market for railways
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The following targets have been set to the operational objectives:

- to achieve, by 2025, the removal of all unnecessary national rules (cf. OO3)
- to achieve, by 2025, a 20% reduction in the time to market for new railway undertakings above the baseline situation in 2025 (cf. OO1 and OO2)
- to achieve, by 2025, a 20% reduction in the cost and duration of the authorisation of rolling stock above the baseline situation in 2025 (cf. OO1 and OO2)

4. POLICY OPTIONS

Based on the screening of individual measures the Commission has identified five policy options (options 2-6), besides the baseline scenario. By construction, options 2-5 concern primarily the level of interaction between the European Railway Agency (ERA or the Agency) and national authorities and are all capable of tackling the three operational objectives set out in section 3. Option 6 is a set of horizontal measures which are mostly independent of the interactions between ERA and national authorities and can be applied on top of any of the option 2-5, with expected reinforcement of the overall final impact.

Option 1: Baseline scenario (do nothing) – continuing on the path that is currently set out for the sector

Option 2: Greater coordination role for the Agency in ensuring a consistent approach to certification of railway undertakings and vehicle authorisation

Option 3: ERA as a one-stop-shop, where the final decision on certification and authorisation remains with the NSAs but ERA performs entry and exit checks of applications and of the decisions

Option 4: ERA & NSAs share competencies, where the final decision on certification and authorisation is taken by the Agency

Option 5: ERA takes over activities of NSAs in relation to certification of railway undertakings and vehicle authorisation

Option 6: Horizontal measures, includes other legislative and soft measures (beyond sharing the responsibilities between national authorities and ERA) that could be implemented to improve the competitiveness of the rail sector.

A table showing all the policy packages together with individual policy measures is given below.

Summary of policy options

Option 1	Option 2: Further ERA “Coordination” over NSAs	Option 3: ERA as One-Stop-Shop	Option 4: ERA & NSAs share competencies	Option 5: ERA takes over activities of NSAs
Baseline	Enhanced “coordination” and supervision role of ERA with respect to NSAs regarding granting of vehicle authorisations & safety authorisations including ensuring their mutual recognition by national authorities.	ERA shares the competences with the NSAs regarding granting of safety certificates to the railway undertakings and vehicle authorisations (“one stop shop” concept): the decision is taken by NSA, ERA performs “entry and exit” checks of the application. ERA as an appeal body for some decisions of NSAs	ERA shares the competences with the NSAs regarding granting of safety certificates & vehicle authorisations: a “one stop shop” concept with the NSAs (acting as regional offices of ERA) contributing but the final decision rests with ERA.	ERA takes over the competences of the NSAs regarding granting of certificates to the railway undertakings and vehicle authorisations.
	Migration to a single (common) safety certificate and single vehicle authorisation (setting up European “passport” for vehicles): <u>national</u> authorities issue single safety certificates & single vehicle authorisations (mutually recognised by definition)	Migration to a single (common) safety certificate (setting up European “passport” for vehicles): ERA issues single safety certificates and single vehicle authorisations (Appeals to ERA decisions are sent to a separate appeal body)	Migration to a single (common) safety certificate and single vehicle authorisation (setting up European “passport” for vehicles): ERA issues single safety certificates and single vehicle authorisations (Appeals to ERA decisions are sent to a separate appeal body)	
	Control by ERA over the functioning of NSAs (e.g. developing guidelines & auditing adherence to them).			
Option 6: horizontal measures (independent of the level of interaction ERA/national authorities)	Enhanced “coordination” and supervision role of ERA with respect to NoBos regarding: type approval; rail vehicles certification; ERTMS certification and accreditation of NoBos.			
	Strengthened action by the Commission outside infringement procedure, notably on non-discrimination in the railway market			
	Amendment of the interoperability and safety directives to enable the adoption of implementing acts setting out common principles & practices for national authorities			
	Enhanced role of ERA in monitoring and control of implementation of national safety and interoperability legislation			
	Migrating from national technical & safety rules to a system of EU rules (requirement for national authorities to remove unnecessary rules and limiting their possibility of adopting new rules).			
	Enhanced role of ERA in dissemination of railway-related information and training.			
	Enhanced role of ERA in providing advice & support for Member States & other stakeholders in implementing legislation on safety & interoperability			
	Communication from the Commission regarding guidelines on the interpretation of specific EU laws & decisions (including Technical Specification for Interoperability, TSIs)			
	Enhanced role of ERA in identifying potential spare parts to be standardised and coordination of industry activities in this area			

For the sake of transparency, all options were first assessed individually and, subsequently, in combination with option 6 which has amplificatory effect on other options.

5. ASSESSMENT OF IMPACTS

Given the strong focus on operational efficiency, the core impacts of this initiative are economic, while social and environmental impacts are mostly indirect and sometimes negligible. Direct impacts are quantified, while indirect impacts are assessed in qualitative terms.

Quantitative assessment of direct impacts consists of:

- calculation of savings in costs and timescales of certification and authorisation processes (including savings of administrative costs for operators);
- calculation of opportunity cost savings for operators resulting from a reduced time to market for railway vehicles and
- calculation of the changes in the cost of administration of ERA and national authorities.

Option 6 was assessed separately and in combination with options 2-5.

Assessment of direct impacts - total cost saving benefits for operators of combined options

Combining the authorisation, certification and opportunity cost savings demonstrates substantial benefits over the evaluation period with benefits of over €0.5 bn for options 3-5. Total quantified benefits by option are presented in the table below, with option 2 being the least and option 5 – the most beneficial:

Total quantified benefits for rail undertakings 2015-2025 of options 2-5 in combination with option 6 (discounted, € m NPV)

Option	Authorisation cost savings	Certification cost savings	Opportunity cost savings (central case)	Total benefits
Option 2+6: Further ERA “Coordination” + horizontal measures	201	2	237	440
Option 3+6: ERA as One-Stop-Shop + horizontal measures	217	2	255	474
Option 4+6: ERA & NSAs share competencies + horizontal measures	235	2	265	502
Option 5+6: ERA takes over activities of NSAs regarding authorisation & certification + horizontal measures	276	3	295	574

Assessment of direct impacts - total changes in administrative costs for Agency and NSAs

The estimate of the cost of administration for ERA arising from combined options is given in the table below, with option 5 being by far the most costly:

Additional cost of administration on the ERA of options 2-5 in combination with option 6 (€m)

Option	Yearly values by 2020 (when all staff changes have been phased in)						Total costs, NPV (2015-2025)
	Total additional staff	Total additional staff cost	Overhead	Other costs	Total gross cost increase	% of current ERA budget	
Option 2+6: Further ERA "Coordination" + horizontal measures	38	(3.5)	(0.9)	(0.5)	(4.9)	24%	(37)
Option 3+6: ERA as One-Stop-Shop + horizontal measures	42	(3.9)	(1.0)	(0.5)	(5.4)	27%	(39)
Option 4+6: ERA & NSAs share competencies + horizontal measures	55	(5.0)	(1.3)	(0.3)	(6.6)	33%	(44)
Option 5+6: ERA takes over activities of NSAs regarding authorisation & certification + horizontal measures	302	(23.2)	(5.8)	(2.0)	(31)	154%	(221)

It should be noted that no additional costs were identified as a result of the baseline activities. There is a clear evolution of activities in the baseline, but it is not believed having a significant impact on the administrative costs for the Agency.

The related cost of administration on NSAs arising from combined options are presented in the table below, with option 5 having the highest potential impact on reducing the costs.

Savings of the cost of administration in NSAs of options 2-5 in combination with option 6 (€m)

Option	Total NSA staff* (estimate 2011)	Yearly values by 2020 (when all staff changes have been phased in), <u>per NSA</u>				Total NPV in the EU (2015-2025)	
		Total staff variation	Total staff costs saving	Overhead	Total gross cost saving		
Option 2+6: Further ERA "Coordination" + horizontal measures	500	-2	EU12	0.08	0.02	0.1	37
			EU15	0.17	0.04	0.2	
Option 3+6: ERA as One-Stop-Shop + horizontal measures	500	-4	EU12	0.09	0.02	0.1	55
			EU15	0.35	0.09	0.4	
Option 4+6: ERA & NSAs share competencies + horizontal	500	-5	EU12	0.11	0.03	0.1	68

Option measures	Total NSA staff* (estimate 2011)	Yearly values by 2020 (when all staff changes have been phased in), <u>per NSA</u>				Total NPV in the EU (2015- 2025)	
		Total staff variation		Total staff costs saving	Overhead		Total gross cost saving
			EU15	0.44	0.11		0.6
Option 5+6: ERA takes over activities of NSAs regarding authorisation & certification + horizontal measures	-11	EU12	0.24	0.06	0.3	152	
		EU15	0.96	0.24	1.2		

* Only those working on certification & authorisation. An estimated value based on the Interoperability and Safety Reports of the Agency. Assuming that EBA (German NSA) staff in regional offices is not counted as certification and authorisation staff, but is being an inspection and auditing staff

The following table shows the total estimated impacts on the cost of administration for ERA and NSAs respectively for each of the policy options analysed. For all options, except for option 5, an overall reduction in the cost of administration was estimated due to the fact that the additional costs incurred by ERA can be compensated by the cost savings registered by the NSAs.

Change in Agency and NSA costs and the net impact on cost of administration of options 2-5 in combination with option 6 (Total costs, NPV, 2015-2025, € m)

Option	Estimated cost increase for ERA	Estimated cost decrease for NSAs	Total saving in the cost of administration (ERA+NSAs)
Option 2+6: Further ERA "Coordination" + horizontal measures	(37)	37	0
Option 3+6: ERA as One-Stop-Shop + horizontal measures	(39)	55	16
Option 4+6: ERA & NSAs share competencies + horizontal measures	(44)	68	24
Option 5+6: ERA takes over activities of NSAs regarding authorisation & certification + horizontal measures	(221)	152	(69)

The table above shows that option 4 is the one that leads to highest cost savings (€24 m.), while the implementation of option 5 is expected to impose an increase in administrative costs of about €69 m.

Assessment of indirect impacts

The indirect social impacts, as well as any environmental impacts (GHG emissions, air quality and noise) are expected to be low, and in reality it would be difficult to establish to what extent these were originated by this initiative rather than other 4th Railway Package initiatives and/or external factors such as changes in demand of other transport modes.. Rail safety levels under each option remain the same given that the principal responsibilities of each main actor in the safety chain will not be changed, or improve as a result of more harmonised national legislation.

6. COMPARISON OF OPTIONS

Comparison in terms of direct impacts

The overall results of the assessment of different impacts are summarised in the table below. Although option 6 could be pursued as a self-standing option, the analysis has shown the strong benefits of combining it with institutional options 2-5.

Summary table of discounted cost savings for rail undertakings and public authorities 2015-2025 of options 2-5 in combination with option 6 (NPV, € m)

Option	Savings to rail undertakings (including in administrative costs)				Change in cost of administration			ERA/NSA authorisation fee revenue loss ¹	Total net benefit	Additional funds necessary from EU budget to cover ERA costs
	Authorisation	Safety certification	Opportunity costs (central case)	Total benefits for operators	For ERA	For NSAs	Total change in cost of administration			
Option 2+6: Further ERA “Coordination” + horizontal measures	201	2	237	440	(37)	37	0	(29)	411	(37)
Option 3+6: ERA as One- Stop-Shop+ horizontal measures	217	2	255	474	(39)	55	16	(29)	461	(39)
Option 4+6: ERA & NSAs share competencies+ horizontal measures	235	2	265	502	(44)	68	24	(29)	497	a: 0 ²
										b: (6)
										c: (25)
Option 5+6: ERA takes over activities of NSAs regarding authorisation & certification+ horizontal measures	276	3	295	574	(221)	152	(69)	(29)	476	(146)

Taking into account the direct impacts, option 4 is the most beneficial, i.e. it has the best ratio of costs and benefits. Moreover, it can be also cost-neutral to the EU budget (a minimal cost under scenario (a) and neutral under scenario (b)), given the proposed coverage of additional costs of ERA by industry fees.

¹ Over time there will be a gradual reduction in the total number of vehicle type authorisations, which will lead to a reduction in total fees across the EU of about €29 m.

² This cell illustrates the extent to which future revenues collected by the Agency for its part of issuing of safety certificates and vehicle authorisations can cover the additional costs of the Agency, with three scenarios of sharing the revenues between ERA and the NSAs – (a): 25% NSAs, 75% ERA; (b): 50% NSAs, 50% ERA; (c): 75% NSAs, 25% ERA.

Comparison in terms of efficiency and effectiveness

Effectiveness and efficiency different options is summarised in the table below.

Efficiency and effectiveness of the options

Option	Efficiency (Total Net Benefit € m)	Effectiveness (number of operational objectives met)
Option 2+6: Further ERA “Coordination” + horizontal measures	411	1
Option 3+6: ERA as One-Stop-Shop + horizontal measures	461	2
Option 4+6: ERA & NSAs share competencies + horizontal measures	497	3
Option 5+6: ERA takes over activities of NSAs regarding authorisation & certification + horizontal measures	476	3

This table shows that by combining the net benefits with effectiveness in terms of operational objectives, option 4 remains the favoured option – all objectives will be achieved with a highest net benefit. While the benefits of option 3 are relatively close to that of option 4, this option would compare unfavourably in terms of effectiveness as the target for reduction in authorisation costs will not be achieved.

Conclusion

Option 4 would be a coherent, effective and efficient solution to the problems identified, as it provides the best balance of outcomes in relation to:

- the industry, in terms of reduced costs and timescales for safety certification and vehicle and other sub-system authorisation;
- cost implications for the EU budget;
- the cost impacts on national institutions;
- respect of the subsidiarity and proportionality principles;
- addressing the problems identified in section 1; and
- meeting the objectives outlined in section 3.

7. MONITORING AND EVALUATION

Regarding evaluation, it is planned, that in 2025 the Commission will evaluate whether the objectives of the initiative were achieved, and if not consider additional steps to be taken in order to complete them by 2030.

Progress in terms of reaching the objectives could be monitored by relevant monitoring indicators. For this purpose, the existing targets for operational objectives could be used and transformed in the following indicators:

- number of national rules,
- cost and duration of safety certification procedure, and
- cost and duration of vehicle authorisation procedure.

The indicators could be verified by the tools like interviews (survey) with a selection of stakeholders on their own assessment of time and costs related to certification and vehicle authorisation and number of notified and published national rules measured in the appropriate database.

Additionally, it might be also useful to monitor the position of stakeholders – through a consultation process – with respect to:

- Non-discrimination;
- An increase the coherence of the national legal framework.