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Subject: *Preparation of the Council meeting (Transport, Telecommunications and Energy) on 11 March 2013*

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

- *Orientation debate*

I. Introduction

1. On 30 January 2013, the Commission presented the fourth railway package, which consists of six legislative proposals aimed at removing the remaining barriers to the completion of the Single European Railway Area. The package contains three groups of measures, with a view to:

- renewing rules on governance structure in relation to infrastructure management and transport operations (governance pillar);
- ensuring further opening of the market for domestic passenger transport services by rail (market opening pillar); and
- reinforcing the harmonisation of interoperability and safety requirements (technical pillar).

2. The Irish Presidency intends to start working on this last so-called technical pillar of the fourth package which encompasses a recast of Directive 2008/57/EC on the interoperability of the rail system within the European Union, a recast of Directive 2004/49/EC on railway safety and a new Regulation on the European Union Agency for Railways (ERA Regulation). The objective of the technical pillar is to enhance the quality and efficiency of rail services by removing the remaining market obstacles and to ensure a higher level of harmonisation of the EU rail network.
3. More specifically, the proposed recast of Directive 2008/57 on the interoperability of the rail system within the EU focuses on the removal of existing administrative and technical barriers in order to reinforce the integration of the European rail sector. It aims at establishing a common approach to interoperability rules in order to increase economies of scale for railway undertakings active across the EU, at accelerating administrative procedures and thus at decreasing administrative costs. Considering these immediate and practical benefits for the rail sector, the Irish Presidency has decided to focus its work on this element of the technical pillar.

II. Work within the Council

4. Following an overall presentation by the Commission of the fourth railway package at the Working Party on Land Transport on 1 February 2013, an initial discussion took place at the Working Party on Land Transport on 12 February 2013 on the three main pillars of the package. In line with the Inter-Institutional Approach to Impact Assessments, the Working Party also discussed and evaluated the three impact assessments accompanying this legislative package on 12 February 2013. The detailed examination of the proposal on interoperability started on 26 February 2013 and is expected to continue on 1 March 2013.
5. Delegations were generally positive regarding the objective of the interoperability proposal but expressed several concerns on the transfer of competences from the national authorities to the European Rail Agency and the practical consequences of such a transfer, in particular in terms of costs, length of procedures, safety of the EU rail network, liability aspects, language regime and appeal procedures.

6. More specifically, some delegations acknowledged the need to reflect further about the ideal distribution of competences and responsibilities between national authorities and the European Rail Agency with a view to accelerating the integration of the whole European rail network, while also taking into consideration the efficiency, proportionality and subsidiarity principles. Several delegations also questioned the necessity of a centralised certification regime for small countries or countries with no or limited external traffic.

All delegations maintain a general scrutiny reservation and DK, NL, SI and UK indicated a parliamentary scrutiny reservation.

III. Questions for the orientation debate

7. In order to enable the Council preparatory bodies to advance their work on the interoperability proposal, the Presidency has decided to seek the guidance of ministers in the form of an orientation debate and has put forward two questions on the above issues. The questions were slightly modified and agreed at the meeting of the Working Party on Land Transport on 26 February 2013.

As a result, ministers will be invited to consider the following questions for the ministerial orientation debate on 11 March 2013:

The proposed Interoperability Directive seeks to accelerate the integration of the whole European rail network by removing existing technical and administrative barriers. The aim is also to guarantee a high level of safety while realising the full potential of the single market. The streamlining of procedures for harmonisation of standards and for placing into service of vehicles and fixed installations is critical to the achievement of these goals.

- 1) *In this regard, what is the optimal, eventual distribution of competences and responsibilities between National Safety Authorities and the European Railway Agency, in particular for authorising vehicles? How should smooth migration to this optimal system be progressed in an efficient manner?*

- 2) *In order to achieve the correct balance between the objectives of the Directive and the principles of subsidiarity, proportionality and efficiency, adapted procedures for authorisations under the Directive might be considered in specific circumstances, such as in the case of distinctly regional or local networks. In this context, what type of cooperation between National Safety Authorities and the European Railway Agency could be envisaged?*

IV. Conclusion

8. The Permanent Representatives Committee is invited to endorse the questions under section III and to invite Ministers to focus their interventions during the TTE Council on 11 March 2013 on these two questions.
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