



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 March 2014

6822/14

**Interinstitutional File:
2013/0016 (COD)**

**CODEC 524
TRANS 83
PE 111**

INFORMATION NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council
Subject: Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast)
- Outcome of the European Parliament's first reading
(Strasbourg, 24 to 27 February 2014)

I. INTRODUCTION

The rapporteur, Mr Michael CRAMER (Greens/EFA, DE), presented a report on the abovementioned proposal, on behalf of the Committee on Transport and Tourism. The report contained 102 amendments (amendments 1 - 102).

In addition, 5 other amendments (amendments 103 - 107) had been tabled by the S&D group.

II. DEBATE

The debate on the proposal, which took place on 25 February 2014, was a joint debate on the six proposals making up the fourth railway package (the single European railway area; opening of the market for domestic passengers; interoperability of the railway system; railway safety; the European Union Agency for Railways (ERA) and Common rules for the accounts of railway undertakings). A summary of the debate is set out in document 6815/14¹.

III. VOTE

The vote on the proposal took place on 26 February 2014. The European Parliament adopted 103 amendments to the proposal.

All of the Committee's 102 amendments were adopted. In addition, amendment 103 by the S&D group was adopted.

The amendments adopted are set out in the Annex together with the legislative resolution.

¹ See also documents 6816/14, 6821/14, 6829/14 and 6830/14.

Railway safety ***I

European Parliament legislative resolution of 26 February 2014 on the proposal for a directive of the European Parliament and of the Council on railway safety (recast) (COM(2013)0031 – C7-0028/2013 – 2013/0016(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0031),
 - having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0028/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Lithuanian Parliament, the Romanian Senate and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 11 July 2013¹,
 - having regard to the opinion of the Committee of the Regions of 8 October 2013²,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³,
 - having regard to the letter from the Committee on Legal Affairs to the Committee on Transport and Tourism in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0015/2014),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those

¹ OJ C 327, 12.11.2013, p. 122.

² OJ C 356, 5.12.2013, p. 92.

³ OJ C 77, 28.3.2002, p. 1.

amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Rail is already the safest mode of transport in the Union and has further improved its safety performance over the past decades. Whilst its transport performance has increased from about 200 billion passenger kilometres in 1970 to over 300 billion now, the mean annual number of train passenger deaths has been reduced from about 400 in the early 1970s to below 100 now.

Amendment 2

Proposal for a directive Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Safety should be ensured not only for passengers and employees, including the staff of contractors, but also for users of level crossings and persons residing near railway lines.

Amendment 3

Proposal for a directive Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) In line with technical and scientific progress, railway safety should be further improved, taking into account the expected improvement in the competitiveness of rail transport.

Amendment 4

Proposal for a directive Recital 1 d (new)

(1d) The railway environment in the Union has been undergoing profound changes, triggered inter alia by the three Union Railway Packages adopted since the early 1990s. The gradual creation of the single European railway area is characterised by a multiplication of actors, increased recourse to subcontractors and more frequent market entries. In this context of higher complexity, rail safety is critically dependent on the interaction between all players, namely railway undertakings, infrastructure managers, the railway industry and safety authorities. Safety legislation should take account of these developments and put in place appropriate information, management and emergency procedures and tools.

Amendment 5

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Directive 2004/49 established a common regulatory framework for railway safety, through harmonisation of the content of safety rules, the safety certification of railway undertakings, the tasks and roles of the national safety authorities and the investigation of accidents. *Nevertheless, to pursue efforts to establish* a single market for rail transport services, that Directive needs thorough revision.

Amendment

(2) Directive 2004/49/EC established a common regulatory framework for railway safety, through harmonisation of the content of safety rules, the safety certification of railway undertakings, the tasks and roles of the national safety authorities and the investigation of accidents. *The ongoing establishment of a single market for rail transport services results in a multiplication of different actors and communication interfaces. In order to guarantee railway safety within this environment,* that Directive needs thorough revision.

Amendment 6

Proposal for a directive

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Given the subsisting differences between safety requirements, which affect the optimal functioning of rail transport in the Union, it is of particular importance to continue the process of harmonising operational and safety rules as well as the rules on the investigation of accidents.

Amendment 7

Proposal for a directive Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) Harmonisation should not, however, jeopardise any Member State's present safety level.

Amendment 8

Proposal for a directive Recital 2 c (new)

Text proposed by the Commission

Amendment

(2c) Proper enforcement and further improvement of Council Directive 96/49/EC^{12a} and Directive 2008/68/EC of the European Parliament and of the Council^{12b} are of the highest importance for rail safety and the protection of human lives, public health and the environment.

^{12a} Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail (OJ L 235, 17.9.1996, p. 25).

^{12b} Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

Amendment 9

Proposal for a directive Recital 3

Text proposed by the Commission

(3) Metros, trams and other light rail systems are subject in many Member States to local or regional safety rules and are often supervised by local or regional authorities and not covered by the requirements for interoperability or licensing within the Union. Trams are furthermore often subject to road safety legislation and could therefore not be fully covered by railway safety rules. For these reasons such local rail systems should be excluded from the scope of this Directive. This does not prevent Member States from applying the provisions of this Directive to local rail systems on a voluntary basis if they deem this appropriate.

Amendment

(3) Metros, trams, ***tram-trains*** and other light rail systems are subject in many Member States to local or regional safety rules and are often supervised by local or regional authorities and not covered by the requirements for interoperability or licensing within the Union. Trams are furthermore often subject to road safety legislation and could therefore not be fully covered by railway safety rules. For these reasons such local rail systems should be excluded from the scope of this Directive. This does not prevent Member States from applying the provisions of this Directive to local rail systems on a voluntary basis if they deem this appropriate.

Amendment 10

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Safety levels in the Union's rail system are generally high, in particular compared to road transport. In line with technical and scientific progress, safety should be further improved, ***when*** reasonably practicable and taking into account the expected improvement in the competitiveness of rail transport.

Amendment

(4) Safety levels in the Union's rail system are generally high, in particular compared to road transport. In line with technical and scientific progress, safety should be further improved, ***so far as is*** reasonably practicable and taking into account the expected improvement in the competitiveness of rail transport.

Amendment 11

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Safety is critically dependent on the interaction between rail infrastructure, operations, manufacturers and safety authorities. Appropriate tools should be

used and developed in order to ensure and develop safety.

Amendment 12

Proposal for a directive Recital 5

Text proposed by the Commission

(5) ***The main*** actors in the rail system, ***infrastructure managers and railway undertakings***, should bear full responsibility for the safety of the system, each for their own part. ***Whenever appropriate, they should cooperate in implementing risk control measures.*** Member States should make a clear distinction between this immediate responsibility for safety and the national safety authorities' task of providing a national regulatory framework and supervising the performance of all operators.

Amendment

(5) ***All the*** actors in the rail system should bear full responsibility for the safety of the system, each for their own part. Member States should make a clear distinction between this immediate responsibility for safety and the national safety authorities' task of providing a national regulatory framework and supervising the performance of all operators.

Amendment 13

Proposal for a directive Recital 6

Text proposed by the Commission

(6) The responsibility of infrastructure managers and railway undertakings for operating the rail system does not preclude other actors such as manufacturers, carriers, consignors, fillers, loaders entities in charge of maintenance, maintenance suppliers, ***wagon*** keepers, service providers and procurement entities from assuming responsibility for their products or services. To avoid the risk that the responsibilities are not properly assumed, each relevant actor should be made responsible for its particular process. Each actor in the rail system should be responsible in respect to the other actors for complete and truthful communication of all relevant information ***to check if the vehicles are fit to run. In particular that concerns*** information on the status and

Amendment

(6) The responsibility of infrastructure managers and railway undertakings for operating the rail system does not preclude other actors such as manufacturers, carriers, consignors, fillers, loaders, ***unloaders, consignees***, entities in charge of maintenance, maintenance suppliers, ***vehicle owners, vehicle*** keepers, service providers and procurement entities from assuming responsibility for their products or services ***and for implanting risk control measures.*** To avoid the risk that the responsibilities are not properly assumed, each relevant actor should be made responsible for its particular process ***through contractual agreements.*** Each actor in the rail system should be responsible in respect to the other actors, ***including relevant authorities***, for

history of the vehicle, maintenance files, traceability of loading operations, and consignment notes.

complete and truthful communication of all relevant information ***needed to ensure the safe operation of a vehicle***, in particular information on the status and history of the vehicle, maintenance files, traceability of loading operations, and consignment notes.

Amendment 14

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The occurrence of heavy accidents involving freight wagons has shown that mandatory rules, harmonised at Union level, on frequency and intervals of maintenance of rail freight wagons, passenger rolling stock and locomotives are necessary

Amendment 15

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The intensity of cooperation between manufacturers, maintenance suppliers and railway undertakings has decreased over past decades. This necessitates the harmonisation of minimum maintenance intervals and quality requirements to ensure the safety of the entire rail system.

Amendment 16

Proposal for a directive Recital 8

Text proposed by the Commission

Amendment

(8) Common safety targets (CSTs) and CSMs have been gradually introduced to ensure that safety is maintained at a high level and, ***when necessary and where reasonably practicable***, improved. They should provide tools for assessment of the safety and performance of operators at

(8) Common safety targets (CSTs) and CSMs have been gradually introduced to ensure that safety is maintained at a high level and improved. They should provide tools for assessment of the safety and performance of operators at Union level as well as in the Member States. Common

Union level as well as in the Member States. Common safety indicators (CSIs) have been established in order to assess whether systems comply with the CSTs and to facilitate the monitoring of railway safety performance.

safety indicators (CSIs) have been established in order to assess whether systems comply with the CSTs and to facilitate the monitoring of railway safety performance.

Amendment 17

Proposal for a directive Recital 9

Text proposed by the Commission

(9) National rules, which are often based on national technical standards, **have been** gradually replaced by rules based on common standards, established by CSTs, CSMs and technical specifications for interoperability (TSIs). In order to eliminate the obstacles to interoperability, the amount of national rules should be reduced as a consequence of extending the scope of the TSIs to the whole Union's rail system and of closing open points in the TSIs. For this purpose the Member States **should** keep their system of national rules updated, delete obsolete rules and **thereof** inform the Commission and the Agency.

Amendment

(9) National rules, which are often based on national technical standards, **are** gradually **being** replaced by rules based on common standards, established by CSTs, CSMs and technical specifications for interoperability (TSIs). In order to eliminate the obstacles to interoperability, the amount of national rules should be reduced as a consequence of extending the scope of the TSIs to the whole Union's rail system and of closing open points in the TSIs. For this purpose the Member States **must** keep their system of national rules updated, delete obsolete rules and inform the Commission and the Agency **thereof without delay**.

Amendment 18

Proposal for a directive Recital 10

Text proposed by the Commission

(10) In view of the gradual approach to eliminating obstacles to the interoperability of the rail system and of the time consequently required for the adoption of TSIs, steps should be taken to avoid a situation where Member States adopt new national rules or undertake projects that increase the diversity of the present system. The safety management system is **the** recognised tool for preventing accidents and railway undertakings are responsible for taking immediate corrective action to prevent re-occurrence of accidents.

Amendment

(10) In view of the gradual approach to eliminating obstacles to the interoperability of the rail system **while maintaining a high level of railway safety**, and of the time consequently required for the adoption of TSIs, steps should be taken to avoid a situation where Member States adopt new national rules or undertake projects that increase the diversity of the present system. The safety management system is **a** recognised tool for preventing accidents. **Member States, the European Railway Agency ('the Agency') and**

Member States should not decrease the responsibility of the railway undertakings by establishing new national rules immediately after an accident.

railway undertakings are responsible for taking immediate corrective action to prevent re-occurrence of accidents. Member States should not decrease the responsibility of the railway undertakings by establishing new national rules immediately after an accident.

Amendment 19

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Train control and signalling systems play a critical role in ensuring railway safety. The harmonised development and deployment of the 'European Rail Traffic Management System' (ERTMS) on the Union railway network constitutes an important contribution to improving safety levels.

Amendment 20

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Railway undertakings and infrastructure managers should establish, within their safety culture, a 'just culture' in order to actively encourage personnel to report safety-related accidents, incidents and near misses without being subject to punishment or discrimination. A fair culture enables the railway industry to learn lessons from accidents, incidents and near misses and thereby improve safety on the railway for workers and for passengers.

Amendment 21

Proposal for a directive Recital 12

Text proposed by the Commission

(12) To ensure a high level of railway safety and equal conditions for all railway undertakings, the latter should be subject to the same safety requirements. A licensed railway undertaking should hold a safety certificate in order to obtain access to the railway infrastructure. The safety certificate should provide evidence that the railway undertaking has established its safety management system and is able to comply with the relevant safety standards and rules. For international transport services, it should be enough to approve the safety management system only once at Union level.

Amendment

(12) To ensure a high level of railway safety and equal conditions for all railway undertakings, the latter should be subject to the same safety requirements. A licensed railway undertaking should hold a safety certificate in order to obtain access to the railway infrastructure. The safety certificate should provide evidence that the railway undertaking has established its safety management system and is able to comply with the relevant safety standards and rules ***in all Member States in which the undertaking operates***. For international transport services, it should be enough to approve the safety management system only once at Union level ***or for the territory the rail infrastructure of which the railway undertaking will use***.

Amendment 22

**Proposal for a directive
Recital 13**

Text proposed by the Commission

(13) Harmonised methods based on Directive 2004/49/EC have been established to be applied to the railway undertakings and the national safety authorities on monitoring, conformity assessment, supervision and on risk evaluation and assessment. This regulatory framework is sufficiently mature to move progressively towards a ‘single safety certificate’, valid throughout the Union. The move to a single safety certificate should make the rail system more effective and efficient by reducing administrative burdens for the railway undertakings.

Amendment

(13) ***Minimum*** harmonised methods based on Directive 2004/49/EC have been established to be applied to the railway undertakings and the national safety authorities on monitoring, conformity assessment, supervision and on risk evaluation and assessment. This regulatory framework is sufficiently mature to move progressively towards a ‘single safety certificate’, valid throughout the Union ***within the specified areas of operation***. The move to a single safety certificate should make the rail system more effective and efficient by reducing administrative burdens for the railway undertakings, ***thereby making railway transport more competitive in intermodal competition***.

Amendment 23

**Proposal for a directive
Recital 16**

Text proposed by the Commission

(16) The certification of train staff *is often an insurmountable* barrier to new entrants. Member States should ensure that facilities for the training and certification of train staff necessary to meet requirements under national rules are available to railway undertakings intending to operate on the relevant network.

Amendment

(16) ***Training and qualification of train staff is a critical factor for railway safety. Railway undertakings should ensure that their staff are adequately qualified, certified and trained, including when operating on the network of another Member State. National safety authorities should monitor and enforce the requirements in this regard.*** The certification of train staff *can be a* barrier to new entrants. Member States should ensure that facilities for the training and certification of train staff necessary to meet requirements under national rules are available to railway undertakings intending to operate on the relevant network.

Amendment 24

**Proposal for a directive
Recital 17 a (new)**

Text proposed by the Commission

Amendment

(17a) The Agency should develop with the sector experts a common safety method for identifying the critical safety components, taking into account the experience of the aviation sector.

Amendment 25

**Proposal for a directive
Recital 18**

Text proposed by the Commission

Amendment

(18) The national safety authorities should be fully independent in their organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant *and* procurement entity. They should carry out their tasks in an open and non-discriminatory way and cooperate with the Agency to create a single rail area and coordinate their decision-making criteria. To increase efficiency, two or more Member States

(18) The national safety authorities should be fully independent in their organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant *or* procurement entity. They should carry out their tasks in an open and non-discriminatory way and cooperate with the Agency to create a single rail area ***with a high level of railway safety*** and coordinate their decision-making criteria. ***In order to fulfil their***

may decide to merge the staff and resources of the respective national safety authorities.

tasks, the national safety authorities must have sufficient budgetary resources and a sufficient number of well-trained staff. To increase efficiency, two or more Member States may decide to merge the staff and resources of the respective national safety authorities.

Amendment 26

Proposal for a directive Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) In order to create a Single European Railway Area and to improve railway safety, the introduction of a single safety certificate is essential. This requires a clear distribution of tasks and responsibilities between the Agency and the national safety authorities. The Agency should become a one-stop shop for safety certificates in the Union, using the valuable expertise, local knowledge and experience of national safety authorities. It should delegate specific tasks and responsibilities to national safety authorities on the basis of contractual agreements as referred to in Regulation [...] [Regulation on the European Railway Agency], but should have exclusive competence to issue, renew, amend or revoke safety certificates for both railway undertakings and infrastructure managers.

Amendment 27

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Adherence to working, driving and rest time rules for train drivers and train staff performing safety tasks is crucial for railway safety and fair competition. The national safety authorities should be responsible for enforcing and checking the application of those rules, as well as

for cross-border operations. The Agency should develop an on-board device for registering the driving and rest times of train drivers. National safety authorities should have competence to monitor driving and rest times across borders.

Amendment 28

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Serious accidents on the railways are rare. However, they can have disastrous consequences and raise concern among the public about the safety performance of the rail system. All such accidents should, therefore, be investigated from a safety perspective to avoid recurrence and the results of the investigations should be made public. Other accidents and incidents should also be subject to safety investigations when they could be significant precursors to serious accidents.

Amendment

(20) Serious accidents on the railways are rare. However, they can have disastrous consequences and raise concern among the public about the safety performance of the rail system. All such accidents should, therefore, be investigated from a safety perspective to avoid recurrence and the results of the investigations should be made public ***and included in regular reports***. Other accidents and incidents should also be subject to safety investigations when they could be significant precursors to serious accidents. ***In order to identify such precursors, railway undertakings and infrastructure managers shall establish a 'just culture' as defined in Article 3.***

Amendment 29

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) The rail safety system is based on feedback and lessons learned from accidents and incidents which require the strict application of rules on confidentiality in order to ensure the future availability of valuable sources of information. In this context, sensitive safety information should be afforded appropriate protection.

Amendment 30

Proposal for a directive Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) Accidents involve a number of different public interests such as the need to prevent future accidents and the proper administration of justice. Those interests go beyond the individual interests of the parties involved and beyond the specific event in question. The right balance among all interests is necessary in order to guarantee the overall public interest.

Amendment 31

Proposal for a directive Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) The rail sector should likewise promote a non-punitive environment facilitating the spontaneous reporting of occurrences and thereby advancing the principle of a 'just culture'.

Amendment 32

Proposal for a directive Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) It is important for the prevention of accidents and incidents that relevant information, including in particular reports and safety recommendations resulting from safety investigations, be communicated as rapidly as possible.

Amendment 33

Proposal for a directive Recital 21 c (new)

(21c) In the rail sector, it is difficult to identify victims and contact persons and/or family members following an accident, since in general the operator does not know the victims' identities. Nevertheless, in some of the Union's rail services where advance reservation is compulsory or security checks are carried out on passengers before they board the train, it would be appropriate if the operator could have a list of the passengers and crew on board for the sole purpose of being able to communicate quickly with family members and/or contact persons. The Agency should therefore be mandated to develop systems to integrate such information in passenger reservation systems. National agencies also need to draw up emergency plans providing for emergency services, access plans and assistance at the site of the accident, and also including a plan for the provision of care for victims. The Agency will be able to cooperate and assist in the drawing-up of such plans, taking account of best practice. The operator should also have a plan for the provision of assistance to victims.

Amendment 34

Proposal for a directive Recital 22

(22) In order to improve the efficiency of activities of an investigation body and to help it in discharging its duties, the investigation body should have timely access to the site of an accident, where necessary in good cooperation with the judicial authority. The reports on investigations and any findings and recommendations provide crucial information for the further improvement of railway safety and should be made publicly available at Union level. Safety

(22) In order to improve the efficiency of activities of an investigation body and to help it in discharging its duties, the investigation body, **as well as the Agency if it so requests**, should have timely access to the site of an accident, where necessary in good cooperation with the judicial authority. **All parties involved, including the Agency, should provide all relevant information necessary in order to enable the investigation body to carry out its activities.** The reports on investigations and

recommendations should be acted upon by the addressees and actions reported back to the investigating body.

any findings and recommendations provide crucial information for the further improvement of railway safety and should be made publicly available at Union level. Safety recommendations should be acted upon by the addressees and actions reported back to the investigating body.

Amendment 35

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) In order to supplement and amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of common safety methods and their revision, and revision of common safety indicators and common safety targets. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment

(25) In order to supplement and amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of common safety methods and their revision, and revision of common safety indicators and common safety targets. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, ***with social partners and especially with national safety authorities***. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment 36

Proposal for a directive

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

This Directive lays down provisions to ensure the development and improvement of safety of the Union's railways and improved access to the market for rail transport services by:

Amendment

This Directive lays down ***minimum*** provisions, ***beyond which Member States may legislate only in accordance with Article 8***, to ensure the development and ***further*** improvement of safety of the Union's railways and improved access to the market for rail transport services by:

Amendment 37

Proposal for a directive

Article 1 – point c

Text proposed by the Commission

(c) developing common safety targets and common safety methods with a view to *gradually removing the need for* national rules;

Amendment

(c) developing common safety targets and common safety methods with a view to *greater harmonisation of* national rules *at a high safety level*;

Amendment 38

Proposal for a directive

Article 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) introducing a single safety certificate that is valid and recognised in all Member States within the specified areas of operation;

Amendment 39

Proposal for a directive

Article 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) requiring the Agency to publish guidelines on railway safety and safety certification, including lists of examples of good practice, in particular for cross-border transport.

Amendment 103

Proposal for a directive

Article 2 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. *The following systems are excluded* from the *scope* of this Directive:

2. *Member States may exclude* from the *measures they adopt in implementation* of this Directive:

Amendment 40

Proposal for a directive Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) metros, trams and light rail systems;

Amendment

(a) metros, trams, ***tram-trains*** and light rail systems;

Amendment 41

Proposal for a directive Article 2 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) light rail infrastructure occasionally used by heavy rail vehicles under the operational conditions of the light-rail systems, where such use by such vehicles is necessary for connectivity purposes only;

Amendment 42

Proposal for a directive Article 2 – paragraph 3 – point b b (new)

Text proposed by the Commission

Amendment

(bb) rolling stock which has lost its authorisation and is being moved to a terminal or site to allow it to be reauthorised.

Amendment 43

Proposal for a directive Article 3 – point a

Text proposed by the Commission

(a) ‘rail system’ means the Union rail system as defined in Article 2 of Directive [xx on interoperability of the rail system];

Amendment

(a) ‘***Union*** rail system’ means the ***conventional and high-speed*** Union rail system as defined in Article 2 of Directive [xx on interoperability of the rail system];

Amendment 44

Proposal for a directive Article 3 – point b

Text proposed by the Commission

(b) ‘infrastructure manager’ means infrastructure manager as defined in Article 2 of Directive 2001/14/EC¹⁴;

¹⁴ OJ L 75, 15.3.2001, p. 29

Amendment

(b) ‘infrastructure manager’ means **an** infrastructure manager as defined in Article 3 of Directive 2012/34/EU of the European Parliament and of the Council¹⁴;

¹⁴ Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

Amendment 45

Proposal for a directive Article 3 – point c

Text proposed by the Commission

(c) ‘railway undertaking’ means railway undertaking as defined in Article 2 of Directive 2001/14/EC, and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction, including undertakings which provide traction only;

Amendment

(c) ‘railway undertaking’ means **a** railway undertaking as defined in Article 3 of Directive 2012/34/EU, and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction, including undertakings which provide traction only;

Amendment 46

Proposal for a directive Article 3 – points c a and c b (new)

Text proposed by the Commission

Amendment

(ca) ‘area of operation’ means a network or networks within a Member State, or a group of Member States, on which a railway undertaking intends to operate;

(cb) ‘isolated rail network’ means the rail network of a Member State, or a part thereof, with a track gauge of 1 520 mm,

which is geographically or technically detached from the European network with the standard nominal track gauge (1 435mm – hereafter 'standard gauge') and well integrated in the rail network of 1 520 mm track gauge together with third countries, but isolated from the Union's standard network.

Amendment 48

Proposal for a directive Article 3 – point f a (new)

Text proposed by the Commission

Amendment

(fa) 'Common Safety Indicators (CSIs)' means a common set of rail safety data, gathered to facilitate the monitoring of railway safety performance as well as the achievement of Common Safety Targets (CSTs);

Amendment 49

Proposal for a directive Article 3 – point h

Text proposed by the Commission

Amendment

(h) 'national rules' means all binding rules **containing** railway safety or technical requirements imposed at Member State level and applicable to railway **undertakings**, irrespective of the body issuing them;

(h) 'national rules' means all binding rules **that have been notified by a Member State and that contain** railway safety, **operational** or technical requirements imposed at Member State level and applicable to railway **actors**, irrespective of the body issuing them;

Amendment 50

Proposal for a directive Article 3 – point i

Text proposed by the Commission

Amendment

(i) 'safety management system' means the organisation and **arrangements** established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;

(i) 'safety management system' means the organisation and **procedures** established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;

Amendment 51

Proposal for a directive

Article 3 – point k

Text proposed by the Commission

(k) ‘accident’ means an unwanted or unintended sudden event or a specific chain of such events which **have** harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others;

Amendment

(k) ‘accident’ means an unwanted or unintended sudden event or a specific chain of such events which **has** harmful consequences; accidents are divided into the following categories: collisions, derailments, level-crossing accidents, accidents to persons, ***including those not falling within the definition of passengers,*** caused by rolling stock in motion, ***including in shunting yards and during track maintenance works,*** fires and others;

Amendment 52

Proposal for a directive

Article 3 – point n a (new)

Text proposed by the Commission

Amendment

(na) ‘reasonably practicable’, when applied to any activity, means that, following a cost-benefit analysis, the activity in question does not lead to a disproportionate contribution in terms of cost and/or implementation timing, in relation to the safety target to be achieved;

Amendment 53

Proposal for a directive

Article 3 – point n b (new)

Text proposed by the Commission

Amendment

(nb) ‘other parties’ means any party that performs external activities at the interfaces with the rail system which may introduce risks that have a direct impact on operations and that have to be controlled by infrastructure managers and railway undertakings;

Amendment 54

Proposal for a directive Article 3 – point p a (new)

Text proposed by the Commission

Amendment

(pa) 'cross-border rail systems' means rail systems that provide transport services between the nearest urban nodes on each side of a border;

Amendment 55

Proposal for a directive Article 3 – point s

Text proposed by the Commission

Amendment

(s) '**keeper**' means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the **national** vehicle **register** referred to in Article 43 of Directive XX on the interoperability of the rail system ;

(s) '**owner**' means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the vehicle **registers** referred to in Article 43 **and Article 43a** of Directive XX on the interoperability of the rail system;

Amendment 56

Proposal for a directive Article 3 – point u

Text proposed by the Commission

Amendment

(u) 'vehicle' means a railway vehicle suitable for circulation on **its own** wheels on railway lines, with or without traction **in a fixed or variable composition** . A vehicle is composed of one or more structural and functional subsystems ;

(u) 'vehicle' means a railway vehicle suitable for circulation on wheels on railway lines, with or without traction. A vehicle is composed of one or more structural and functional subsystems;

Amendment 57

Proposal for a directive Article 3 – point v

Text proposed by the Commission

Amendment

(v) 'manufacturer' means any natural or legal person who manufactures an interoperability constituent or subsystem or

(v) 'manufacturer' means any natural or legal person who manufactures an interoperability constituent, **component** or

has it designed or manufactured, and markets it under his name or trademark;

subsystem or has it designed or manufactured, and markets it under his name or trademark;

Amendment 58

Proposal for a directive Article 3 – point x a (new)

Text proposed by the Commission

Amendment

(xa) 'unloader' means the enterprise which removes a container from a wagon, or unloads packaged goods out of or from a wagon or a container, or discharges goods from a tank, a wagon or a container;

Amendment 59

Proposal for a directive Article 3 – point y a (new)

Text proposed by the Commission

Amendment

(ya) 'just culture' means a procedure to be established to actively encourage personnel to report safety-related accidents, incidents and near misses while still being accountable for wilful violations and gross negligence. Such individuals should not be subject to punishment or discrimination for unintended errors or for disclosure of such information. A just culture enables the railway industry to learn lessons from accidents, incidents and near misses and thereby improve safety on the railway for workers and passengers;

Amendment 60

Proposal for a directive Article 3 – point y b (new)

Text proposed by the Commission

Amendment

(yb) 'consignee' means any natural or legal person who is identified as such in the consignment note and who receives

the goods and the consignment note;

Amendment 61

Proposal for a directive Article 3 – point y c (new)

Text proposed by the Commission

Amendment

(yc) 'carrier' means any enterprise with whom the consignor or the passenger has concluded the contract of carriage or a successive carrier who is liable on the basis of that contract;

Amendment 62

Proposal for a directive Article 4

Text proposed by the Commission

Amendment

Role of the actors of the rail system in developing and improving railway safety

1. Member States and the Agency shall ensure that railway safety is **generally** maintained and, where reasonably practicable, continuously improved, taking into consideration the development of Union legislation and technical and scientific progress and giving priority to the prevention of serious accidents.

2. Member States shall ensure that the responsibility for the safe operation of the rail system and the control of risks associated with it is laid upon the infrastructure managers and railway undertakings, obliging them:

a) to implement necessary risk control measures, where appropriate in cooperation with each other,

b) to apply Union and national rules,

Role of the actors of the rail system in developing and improving railway safety

1. Member States and the Agency shall ensure, **each within their respective fields of responsibility**, that railway safety is maintained and, where reasonably practicable, continuously improved, taking into consideration **the impact of human factors**, the development of Union **and international** legislation and technical and scientific progress and giving priority to the prevention of serious accidents.

Member States and the Agency shall ensure that measures to develop and improve railway safety take account of the need to follow a system-based approach.

2. Member States **and the Agency** shall ensure that the responsibility for the safe operation of the rail system and the control of risks associated with it is laid upon the infrastructure managers and railway undertakings, obliging them:

(a) to implement necessary risk control measures, where appropriate in cooperation with each other,

(b) to apply Union and national rules,

c) to establish safety management systems in accordance with this Directive.

Without prejudice to civil liability in accordance with the legal requirements of the Member States, each infrastructure manager and railway undertaking shall be made responsible for its part of the system and its safe operation, including supply of material and contracting of services, vis-à-vis users, customers, the workers concerned and third parties. The risks associated with the activities of third parties shall also be taken into account in the safety management systems of infrastructure managers and railway undertakings.

3. Each manufacturer, maintenance supplier, *I* keeper, service provider and procurement entity shall ensure that rolling stock, installations, accessories and equipment and services supplied by them comply with the specified requirements and conditions for use, so that they can be safely put into operation by the railway undertaking and/or infrastructure manager.

4. All actors having a relevant role in safety operations shall implement the necessary risk control measures, where appropriate in cooperation with the others. In addition to railway undertakings and infrastructure managers those actors include:

(a) the entities in charge of the maintenance of vehicles;

(b) *the consignors*, the loaders and the fillers, which have a role in safe loading operations,

(c) the manufacturers, which are responsible for the design and manufacturing of safe railway vehicles, parts, components or sub-assemblies of vehicle, railway infrastructure, energy and track side control command, as well as issuing of the preliminary maintenance

(c) to establish safety management systems in accordance with this Directive.

Without prejudice to civil liability in accordance with the legal requirements of the Member States, each infrastructure manager and railway undertaking shall be made responsible for its part of the system and its safe operation, including supply of material and contracting of services, vis-à-vis users, customers, the workers concerned and third parties. The risks associated with the activities of third parties shall also be taken into account in the safety management systems of infrastructure managers and railway undertakings.

3. Each manufacturer, maintenance supplier, keeper, service provider and procurement entity shall ensure that rolling stock, *facilities*, installations, accessories and equipment and services supplied by them comply with the specified requirements and conditions for use, so that they can be safely put into operation by the railway undertaking and/or infrastructure manager.

4. All actors having a relevant role in safety operations shall, *each within their respective fields of responsibility*, implement the necessary risk control measures, where appropriate in cooperation with the others, *and shall bear the responsibility for the performance of their own duties*. In addition to railway undertakings and infrastructure managers, those actors include:

(a) the *keepers and their entity or* entities in charge of the maintenance of vehicles;

(b) the loaders, *the unloaders* and the fillers, which have a role in safe loading operations,

(c) the manufacturers, which are responsible for the design and manufacturing of safe railway vehicles, parts, components or sub-assemblies of vehicles, railway infrastructure, energy and track side control commands, as well as issuing of the preliminary maintenance

documentation associated **to** the vehicle.

5. Each railway undertaking, infrastructure manager and entity in charge of maintenance shall ensure that its contractors implement risk control measures. To this end, each railway undertaking, infrastructure manager and entity in charge of maintenance shall apply the common methods for monitoring processes set out in **the** Regulation (EU) 1078/2012¹⁵. Their contractors shall apply this process through contractual **arrangements**. Railway undertakings, infrastructure managers and entities in charge of maintenance shall disclose their contractual **arrangements** on request of the Agency or the national safety authority.

6. Any actor of the rail system who identifies a safety risk related to defects and construction non-conformities or malfunctions of technical equipment, including those of structural sub-systems, shall report those risks to the other parties involved to enable them to take any necessary corrective actions to ensure continuous achievement of the safety performance of the rail system.

7. In **case** of exchange of vehicles between **railways** undertakings, all actors shall exchange all information relevant to safe operation. Such information shall include information on the status and history of the vehicle, elements of the maintenance files, traceability of loading operations, and consignment notes. It shall be sufficiently detailed to allow an assessment of the risks of operating the vehicle by the railway undertaking.

documentation associated **with** the vehicle.

5. Each railway undertaking, infrastructure manager and entity in charge of maintenance shall ensure that its contractors implement risk control measures. To this end, each railway undertaking, infrastructure manager and entity in charge of maintenance shall apply the common methods for monitoring processes set out in Regulation (EU) 1078/2012¹⁵. Their contractors shall apply this process through contractual **agreements**. Railway undertakings, infrastructure managers and entities in charge of maintenance shall disclose their contractual **agreements** on request of the Agency or the national safety authority.

6. Any actor of the rail system who identifies a **systemic** safety risk related to defects and construction non-conformities or malfunctions of technical equipment, including those of structural sub-systems, shall report those risks, **under a procedure that is harmonised throughout the Union**, to the other parties involved **and to the Agency in order** to enable them to take any necessary corrective actions to ensure continuous achievement of the safety performance of the rail system.

(6a) Member States, the Agency and all actors of the rail system shall establish a 'just culture' that ensures the consistent reporting of accidents, incidents and potential safety risks. In order to encourage such reporting, Member States shall set up a mechanism enabling such reporting to be done on a confidential basis.

7. In **the event** of exchange of vehicles between **railway** undertakings, all actors shall exchange all information relevant to safe operation **using the registers of vehicles referred to in Articles 43 and 43a of [Directive on Interoperability]**. Such information shall include information on the status and history of the vehicle, elements of the maintenance files, traceability of loading operations and **safety-critical components as well as**

consignment notes. It shall be sufficiently detailed to allow an assessment of the risks of operating the vehicle by the railway undertaking.

¹⁵ OJ L 320, 17.11.2012, p. 8.

¹⁵ OJ L 320, 17.11.2012, p. 8.

Amendment 63

Proposal for a directive Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall support the Agency in its work of monitoring the development of railway safety on a Union level.

Amendment 64

Proposal for a directive Article 6 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) methods for monitoring the development of safety at national and Union level;

Amendment 65

Proposal for a directive Article 6 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The Commission shall issue mandates to the Agency to draft the new CSMs referred in point 1(d), to review and update all CSMs to take account of developments in technology or social requirements and to make the relevant recommendations to the Commission.

The Commission shall issue mandates to the Agency to draft the new CSMs referred ***to*** in point 1(d), to review and update all CSMs to take account of developments in technology or social requirements and to make the relevant recommendations to the Commission ***as quickly as possible***.

Amendment 66

Proposal for a directive Article 6 – paragraph 2 – subparagraph 2

Text proposed by the Commission

When drafting the *recommandations*, the Agency shall take account of the opinion of the users and *of the* stakeholders. The recommendations shall enclose a report on the results of this consultation and a report assessing the impact of the new CSM to be adopted.

Amendment

When drafting the *recommendations*, the Agency shall take account of the opinion of the users, *national safety authorities, the social partners* and *other* stakeholders. The recommendations shall enclose a report on the results of this consultation and a report assessing the impact of the new CSM to be adopted.

Amendment 67

**Proposal for a directive
Article 6 – paragraph 3**

Text proposed by the Commission

3. The CSMs shall be revised at regular intervals, taking into account the experience gained from their application and the global development of railway safety and in view of generally maintaining and *where* reasonably practicable, continuously improving safety.

Amendment

3. The CSMs shall be revised at regular intervals, taking into account the experience gained from their application and the global development of railway safety and in view of generally maintaining and, *so far as is* reasonably practicable, continuously improving safety.

Amendment 68

**Proposal for a directive
Article 6 – paragraph 5**

Text proposed by the Commission

5. Member States shall make any necessary amendments to their national rules in the light of the adoption of CSMs and revisions to them.

Amendment

5. Member States shall *promptly* make any necessary amendments to their national rules in the light of the adoption of CSMs and revisions to them.

Amendment 69

**Proposal for a directive
Article 7 – paragraph 2**

Text proposed by the Commission

2. The Commission shall issue a mandate to the Agency to draft revised CSTs and to make the relevant recommendations to the Commission.

Amendment

2. The Commission shall issue a mandate to the Agency to draft revised CSTs *as soon as possible* and to make the relevant recommendations to the Commission.

Amendment 70

Proposal for a directive Article 8

Text proposed by the Commission

National rules

1. Member States may **lay down** new national rules only in the following cases:

- (a) where rules concerning existing safety methods are not covered by a CSM;
- (b) as an urgent preventive measure, in particular following an accident.

Member States shall ensure that national rules take account of the need for a system-based approach.

2. If a Member State intends to introduce a new national rule, it shall notify the draft of that rule to the Agency and the Commission using the appropriate IT system in accordance with **article 23** of Regulation (EU) No .../... [Agency Regulation].

Amendment

National rules

1. Member States may **draft** new national rules **after the entry into force of this Directive** only in the following cases:

- (a) where rules concerning existing safety methods are not covered by a CSM;
- (b) as an urgent preventive measure, in particular following an accident.

Member States shall ensure that national rules **are non-discriminatory and that they** take account of the need for a system-based approach.

Member States may decide to achieve a higher safety level than that defined in the relevant CST provided that such higher safety level is fully compatible with the existing CST.

2. If a Member State intends to introduce a new national rule, it shall **promptly** notify the draft of that rule to the Agency and the Commission using the appropriate IT system in accordance with **Article 23** of Regulation (EU) No .../... [Agency Regulation] **and enclosing a report assessing the impact of the new rule to be adopted. Save in the cases described in point (b) of paragraph 1, such notification shall be made at least three months before the planned adoption of the rule.**

After receipt of the draft national rule, the Agency shall initiate a coordination process involving all national safety authorities in order to ensure the highest possible degree of harmonisation across the Union.

The new national rule may not remain in force or enter into force if the Commission, upon a recommendation of the Agency, objects to it, providing a statement of reasons for its objection.

3. If the Agency becomes aware of any national rule notified or not which that has become redundant or is in conflict with the CSMs or any other Union legislation adopted after the application of the national rule the procedure established in *article* 22 of Regulation (EU) No .../... [Agency Regulation] shall apply.

4. Member States shall ensure that national rules are made available free of charge and in *a language that can be understood by all parties concerned*.

5. National rules notified in accordance with this Article are not subject to the notification procedure set out in Directive 98/34/EC.

3. If the Agency becomes aware of any national rule notified or not which has become redundant or is in conflict with the CSMs or any other Union legislation adopted after the application of the national rule, the procedure established in *Article* 22 of Regulation (EU) No .../... [Agency Regulation] shall apply.

In relation to matters concerning training, occupational health and safety for rail professionals responsible for safety critical tasks, the Agency may only apply this paragraph if the national rule in question is discriminatory and a higher safety level is ensured by the CSMs or by any other Union legislation.

4. Member States shall ensure that national rules, *including those covering the interfaces between vehicles and the network*, are made available free of charge and in *at least two official languages of the Union*.

5. National rules notified in accordance with this Article are not subject to the notification procedure set out in Directive 98/34/EC.

5a. The Agency shall establish and publish common guidelines for the adoption of new, or the amendment of existing, national rules.

Amendment 71

Proposal for a directive Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The safety management system shall meet the requirements, adapted to the character, extent and other conditions of the activity pursued. It shall ensure the control of all risks associated with the activity of the infrastructure manager or railway undertaking, including the supply of maintenance and material and the use of contractors. Without prejudice to existing national and international liability rules, the safety management system shall also

Amendment

2. The safety management system shall meet the requirements, adapted to the character, extent and other conditions of the activity pursued. It shall ensure the control of all risks associated with the activity of the infrastructure manager or railway undertaking, including *proper qualification and training of staff as well as* the supply of maintenance and material and the use of contractors. Without prejudice to existing national and

take into account, where appropriate and reasonable, the risks arising as a result of activities by other parties.

international liability rules, the safety management system shall also take into account, where appropriate and reasonable, the risks arising as a result of activities by other parties. ***Consequently, infrastructure managers and railway undertakings shall have procedures to identify those potential risks which arise from external activities at the interfaces with the rail system and which have a direct impact on operations.***

Amendment 72

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Commission shall establish, by means of ***implementing*** acts, elements of the safety management system. Those ***implementing*** acts shall be adopted in accordance with the ***examination*** procedure referred to in Article 27(2).

Amendment

The Commission shall establish, by means of ***delegated*** acts, elements of the safety management system, ***including an internally approved and communicated safety policy; qualitative and quantitative safety targets and procedures to reach those targets; procedures to meet technical and operational standards; risk evaluation procedures and implementing risk control measures; staff training and information measures; procedures ensuring communication and documentation of safety-related information; procedures for reporting and analysing incidents and accidents and other safety occurrences and for developing preventive measures; provisions in respect of emergency plans which are agreed with public authorities; and provisions for the internal auditing of the safety management system.*** Those ***delegated*** acts shall be adopted in accordance with the procedure referred to in Article 26.

Amendment 73

Proposal for a directive

Article 9 – paragraph 2 a (new)

2a. As far as railway personnel are concerned, the safety management system shall include measures for the provision of programmes for the training of staff and systems to ensure that the competence of staff is maintained and that tasks are carried out accordingly.

Amendment 74

Proposal for a directive Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The safety management system shall include provisions for a 'just culture' as defined in Article 3.

Amendment 75

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The safety management system of any infrastructure manager shall take into account the effects of operations by different railway undertakings on the network and make provisions to allow all railway undertakings to operate in accordance with TSIs and national rules and with the conditions laid down in their safety certificate. The safety management systems shall be developed with the aim of coordinating the emergency procedures of the infrastructure manager with all railway undertakings that operate on its infrastructure.

3. The safety management system of any infrastructure manager shall take into account the effects of operations by different railway undertakings on the network and make provisions to allow all railway undertakings to operate in accordance with TSIs and national rules and with the conditions laid down in their safety certificate. The safety management systems shall be developed with the aim of coordinating the emergency procedures of the infrastructure manager with all railway undertakings that operate on its infrastructure, ***with the emergency services, so as to guarantee the rapid intervention of rescue services, and with any other party that could be involved in an emergency situation. For cross-border infrastructure, and in particular for cross-border tunnels, specific safety management systems shall be developed and improved in order to ensure the***

necessary coordination and preparedness of the competent emergency services on both sides of the border.

Amendment 76

Proposal for a directive Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Infrastructure managers shall also establish a system for coordination with managers in neighbouring countries with which the network is linked. That system shall include mechanisms for the provision of information in the event of incidents or accidents on the network or delays that could disrupt cross-border traffic, and cooperation procedures to restore traffic between the two infrastructures whilst guaranteeing network safety at all times. Infrastructure managers in both countries shall notify operators, stakeholders and the corresponding national authorities of any relevant information that could affect traffic between the two States.

Amendment 77

Proposal for a directive Article 10

Text proposed by the Commission

Amendment

Single safety certificate

1. Access to the railway infrastructure shall be granted only to railway undertakings which hold the single safety certificate.
2. The single safety certificate shall be granted by the Agency on the basis of the evidence that the railway undertaking has established its safety management system in accordance with Article 9 and meets the requirements laid down in TSIs **and** in other relevant legislation in order to control risks and provide transport services safely on the network.

Single safety certificate

1. Access to the railway infrastructure shall be granted only to railway undertakings which hold the single safety certificate.
2. The single safety certificate shall be granted by the Agency, **save in the cases referred to in paragraph 2a**, on the basis of the evidence that the railway undertaking has established its safety management system in accordance with Article 9 and meets the requirements laid down in TSIs, in other relevant legislation **and in any specific operational rules relevant for the service operated by the**

railway undertaking in order to control risks and provide transport services safely on the network.

2a. Safety certificates for railway undertakings operating exclusively on an isolated network may also be granted by a national safety authority of those Member States which possess such a network. In such cases, the applicant may choose between applying to the Agency or to the national safety authorities of the Member States concerned.

Within the transition period provided for in Article 30, the national safety authorities of those Member States that possess an isolated network shall establish common safety certification procedures and ensure mutual recognition of safety certificates issued by them. In the case of conflicting decisions of the national safety authorities or in the absence of a mutually acceptable decision, the Agency shall take a decision in accordance with Article 12 of Regulation XXXX [Agency Regulation].

If by the end of the transitional period provided for in Article 30 those national safety authorities have not established arrangements for common procedures and mutual recognition of safety certificates, the authorisations referred to in this Article shall be granted only by the Agency.

If by the end of the transitional period provided for in Article 30 the arrangements for common certification procedures and mutual recognition of safety certificates are established, the national safety authorities of those Member States that possess isolated networks may continue to issue safety certificates and the applicant may choose to apply for a safety certificate to the Agency or to the relevant national safety authorities after the end of the transition period provided for in Article 30.

Ten years after the entry into force of this Directive, the Commission shall present to the European Parliament and the Council

3. The single safety certificate shall specify the type **and** extent of the railway operations covered. It shall be valid throughout the Union **for equivalent operations**.

4. **Three months before** the start of operation of any new service, the railway undertaking shall notify to the **relevant** national safety **authority** the documentation **confirming** that:

(a) the railway undertaking will follow the operating rules, including national rules made available to them in accordance with Article 8(4), and assess the safety of their operation, taking into account the requirements in Commission Regulation (EC) No 352/2009¹⁶ and ensuring that they are managing all risks through their safety management system and that they are making all necessary arrangements to operate safely;

(b) the railway undertaking has made the arrangements necessary for cooperation and coordination with the infrastructure manager(s) of the network(s) where it proposes to operate;

(c) the railway undertaking has taken any action necessary to ensure the safe operation of the service;

(d) the railway undertaking has a licence issued in accordance with Council Directive 95/18/EC¹⁷;

(e) the type **and** extent of its intended operation corresponds to that specified in its single safety certificate.

If the national safety authority has doubts concerning the fulfilment of one or more conditions it shall request more

a report on the progress achieved towards the establishment of common procedures and the mutual recognition of safety certificates on the isolated rail network and shall, if necessary, make appropriate legislative proposals.

3. The single safety certificate shall specify the type, extent **and area of operation** of the railway operations covered. It shall be valid **and recognised** throughout **or in parts of** the Union **in conformity with the conditions laid down by the Agency**.

4. **Before** the start of operation of any new service **that is not covered by its single safety certificate**, the railway undertaking shall **send to the Agency or, in the cases referred to in paragraph 2a**, to the national safety **authorities**, the **additional** documentation **necessary to confirm** that:

(a) the railway undertaking will follow the operating rules, including national rules made available to them in accordance with Article 8(4), and assess the safety of their operation, taking into account the requirements in Commission Regulation (EC) No 352/2009¹⁶ and ensuring that they are managing all risks through their safety management system and that they are making all necessary arrangements to operate safely;

(b) the railway undertaking has made the arrangements necessary for cooperation and coordination with the infrastructure manager(s) of the network(s) where it proposes to operate;

(d) the railway undertaking has a licence issued in accordance with Council Directive 95/18/EC¹⁷;

(e) the type, **extent and area of operation** of its intended operation corresponds to that specified in its single safety certificate.

If the **Agency or, in the cases referred to in paragraph 2a**, the national safety authority, has doubts concerning the

information from the railway undertaking. **However, this exchange may not have any suspensive or delaying effect on the start of operation. If the national safety authority finds evidence that one or more conditions are not met, it shall refer the matter to the Agency, which shall take the appropriate measures, including revocation of the certificate.**

5. The single safety certificate shall be renewed upon application by the railway undertaking at intervals not exceeding five years. It shall be wholly or partly updated **whenever** the type **or** extent of the operation is substantially **altered**.

The holder of the single safety certificate shall inform the Agency without delay of any major changes in the conditions of the single safety certificate. It shall furthermore notify the Agency whenever new categories of staff or new types of rolling stock are introduced.

The Agency may require that the single safety certificate be revised following substantial changes to the safety regulatory framework.

6. If a national safety authority finds that a holder of a single safety certificate no longer satisfies the conditions for certification, it shall ask the Agency to revoke it. The Agency may revoke the single safety certificate, giving reasons for its decision. The Agency shall immediately inform all the national safety authorities of the networks on which the railway undertaking operates.

7. The Agency shall inform the national

fulfilment of one or more conditions, it shall request more information from the railway undertaking **in accordance with the time limits laid down in Article 11(1). If the Agency or, in the cases referred to in paragraph 2a, the national safety authority, finds evidence that one or more conditions are not met, it shall take the appropriate measures, including the amendment, suspension or revocation of the certificate.**

5. The single safety certificate shall be renewed upon application by the railway undertaking at intervals not exceeding five years. It shall be wholly or partly updated **before** the type, extent **or area** of the operation is substantially **modified**.

The holder of the single safety certificate shall inform the Agency **or, in the cases referred to in paragraph 2a, the national safety authority**, without delay of any major changes in the conditions of the single safety certificate. It shall furthermore notify the Agency **or, in the cases referred to in paragraph 2a, the national safety authority**, whenever new categories of **safety-critical** staff or new types of rolling stock are introduced. **The time limits laid down in Article 11(1) shall likewise apply in such cases.**

The Agency may require that the single safety certificate be revised following substantial changes to the safety regulatory framework.

6. If a national safety authority finds that a holder of a single safety certificate no longer satisfies the conditions for certification, it shall ask the Agency to revoke it. The Agency **or, in the cases referred to in paragraph 2a, the national safety authority** may revoke the single safety certificate, giving reasons for its decision. The Agency **or, in the cases referred to in paragraph 2a, the national safety authority** shall immediately inform all the national safety authorities of the networks on which the railway undertaking operates.

7. The Agency **or, in the cases referred to**

safety authorities within one month of the issue, renewal, amendment or revocation of a single safety certificate. It shall state the name and address of the railway undertaking, the issue date, the scope and validity of the certificate and, in the case of revocation, the reasons for its decision.

8. The Agency shall continuously monitor the effectiveness of the measures for the issuing of single safety certificates and supervision by national safety authorities and, where appropriate, shall make recommendations to the Commission for improvement. These may include a **recommandation** for a CSM covering a process of the safety management system which needs to be harmonised at Union level, as referred to in Article 6(1)(d).

¹⁶ OJ L 108, 29.4.2009, p. 4.

¹⁷ OJ L 143, 27.6.1995, p. 70.

in paragraph 2a, the national safety authority, shall inform the national safety authorities within one month of the issue, renewal, amendment or revocation of a single safety certificate. It shall state the name and address of the railway undertaking, the issue date, the scope and validity of the certificate and, in the case of revocation, the reasons for its decision.

8. The Agency shall continuously monitor the effectiveness of the measures for the issuing of single safety certificates and **the** supervision by national safety authorities and, where appropriate, shall make recommendations to the Commission for improvement. These may include a **recommandation** for a CSM covering a process of the safety management system which needs to be harmonised at Union level, as referred to in **point (d) of Article 6(1)**.

8a. Any natural or legal person may appeal against a decision addressed to that person by the Agency pursuant to Articles 12, 16, 17 and 18 of Regulation ... [Agency Regulation] or against a failure by the Agency to respond within the prescribed time limits. These rights shall also apply to bodies representing persons referred to in Article 34(2) of Regulation ... [Agency Regulation], as duly authorised in accordance with their statutes.

¹⁶ OJ L 108, 29.4.2009, p. 4.

¹⁷ OJ L 143, 27.6.1995, p. 70.

Amendment 78

Proposal for a directive Article 11

Text proposed by the Commission

Applications for single safety certificates

1. Applications for single safety certificates shall be submitted to the Agency. The Agency shall take a decision on an application without delay and in any event

Amendment

Applications for single safety certificates

1. Applications for single safety certificates shall be submitted to the Agency. The Agency shall take a decision on an application without delay and in any event

not more than *four* months after *all required information and any supplementary information requested by the Agency has been submitted*. If the applicant is requested to submit supplementary information, such information shall be *submitted promptly*.

(2) The Agency shall provide detailed guidance on how to obtain the single safety certificate. It shall list all requirements that have been laid down for the purpose of Article 10(2) and shall publish all relevant documents.

3. An application guidance document describing and explaining the requirements for the single safety certificates and listing the required documents shall be made available to applicants free of charge. The national safety authorities shall cooperate with the Agency in disseminating such information.

not more than *three* months after *receipt of the application*. If the applicant is requested to submit supplementary information, such information shall be *supplied within a reasonable period set by the Agency that shall not exceed one month unless, in exceptional circumstances, the Agency agrees to, and authorises, a time-limited extension*. *Negative decisions shall be duly supported by a statement of reasons*.

In the case of an application for an extension, to operate in an additional Member State, the Agency shall likewise take its decision within three months from receipt of the application.

(2) The Agency shall provide detailed guidance on how to obtain the single safety certificate. It shall list all requirements that have been laid down for the purpose of Article 10(2) and shall publish all relevant documents.

3. An application guidance document describing and explaining the requirements for the single safety certificates and listing the required documents shall be made available to applicants free of charge *and in all official languages of the Union*. The national safety authorities shall cooperate with the Agency in disseminating such information.

Amendment 79

Proposal for a directive Article 12

Text proposed by the Commission

Safety authorisation of infrastructure managers

1. In order to be allowed to manage and operate a rail infrastructure, the infrastructure manager shall obtain a safety authorisation from the national safety authority in the Member State where it is established.

Amendment

Safety authorisation of infrastructure managers

1. In order to be allowed to manage and operate a rail infrastructure, the infrastructure manager shall obtain a safety authorisation from the national safety authority in the Member State where it is established. *In the case of cross-border infrastructures with a single infrastructure manager, the Agency shall*

2. The safety authorisation shall comprise authorisation confirming acceptance of the infrastructure manager's safety management system laid down in Article 9 , which shall include the procedures and provisions for meeting the requirements necessary for the safe design, maintenance and operation of the railway infrastructure, including, where appropriate, the maintenance and operation of the traffic control and signalling system.

The safety authorisation shall be renewed upon application by the infrastructure manager at intervals of five years. It shall be wholly or partly updated whenever substantial changes are made to the infrastructure, signalling or energy supply or to the principles of its operation and maintenance. The holder of the safety authorisation shall **without delay** inform the national safety authority of all such changes.

The national safety authority may require that the safety authorisation be revised following substantial changes to the safety regulatory framework.

If the national safety authority finds that an authorised infrastructure manager no longer satisfies the conditions for a safety authorisation it shall revoke the authorisation, giving reasons for its decisions.

3. The national safety authority shall take a decision on an application for safety authorisation without delay and in any event not more than **four** months after **all the information required and any supplementary information requested has**

be in charge of the tasks laid down in this Article.

2. The safety authorisation shall comprise authorisation confirming acceptance of the infrastructure manager's safety management system laid down in Article 9 which shall include the procedures and provisions for meeting the requirements necessary for the safe design, maintenance and operation of the railway infrastructure, including, where appropriate, the maintenance and operation of the traffic control and signalling system, **as well as procedures for action in the event of a serious accident in order to guarantee emergency assistance and restore infrastructure safety.**

The safety authorisation shall be renewed upon application by the infrastructure manager at intervals of five years. It shall be wholly or partly updated whenever substantial changes are made to the infrastructure, signalling or energy supply or to the principles of its operation and maintenance. The holder of the safety authorisation shall **promptly** inform the national safety authority **and the Agency** of all such changes.

The national safety authority, **or for cross-border infrastructures as referred to in paragraph 1 the Agency**, may require that the safety authorisation be revised following substantial changes to the safety regulatory framework.

If the national safety authority, **or for cross-border infrastructures as referred to in paragraph 1 the Agency**, finds that an authorised infrastructure manager no longer satisfies the conditions for a safety authorisation, it shall revoke the authorisation, giving reasons for its decisions.

3. The national safety authority shall take a decision on an application for safety authorisation without delay and in any event not more than **three** months after **receipt of the application. If the applicant is requested to submit supplementary information, such information shall be**

been submitted.

supplied within a reasonable period set by the national safety authority or the Agency that shall not exceed one month unless, in exceptional circumstances, the national safety authority or the Agency agrees to, and authorises, a time-limited extension. Negative decisions shall be duly justified.

An application guidance document shall be made available, describing and explaining the requirements for the safety authorisations and listing the documents required.

4. The national safety authority shall inform the Agency within one month of the safety authorisations that have been issued, renewed, amended or revoked. It shall state the name and address of the infrastructure manager, the issue date, the scope and validity of the safety authorisation and, in case of revocation, the reasons for its decision.

4. The national safety authority shall inform the Agency within one month of the safety authorisations that have been issued, renewed, amended or revoked. It shall state the name and address of the infrastructure manager, the issue date, the scope and validity of the safety authorisation and, in case of revocation, the reasons for its decision.

Amendment 80

Proposal for a directive Article 13 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The services offered shall include training on necessary route knowledge, operating rules and procedures, the signalling and control command system and emergency procedures applied on the routes operated.

Amendment

The services offered shall include training on necessary route knowledge, ***assistance to persons with disabilities***, operating rules and procedures, the signalling and control command system and emergency procedures applied on the routes operated.

Amendment 81

Proposal for a directive Article 13 – paragraph 4

Text proposed by the Commission

4. Railway undertakings and infrastructure managers shall be responsible for the level of training and qualifications of its staff carrying out safety-related work.

Amendment

4. Railway undertakings and infrastructure managers shall be responsible for the level of training and qualifications of its staff carrying out safety-related work, ***including on-board staff***.

Amendment 82

Proposal for a directive Article 14

Text proposed by the Commission

Maintenance of vehicles

1. Each vehicle, before it is placed in service or used on the network, shall have an entity in charge of maintenance assigned to it and **this** entity shall be registered in the **national** vehicle **register** in accordance with Article 43 of Directive XX on interoperability of the rail system.

2. A railway undertaking, an infrastructure manager or a keeper may be an entity in charge of maintenance.

3. Without prejudice to the responsibility of the railway undertakings and infrastructure managers for the safe operation of a train as provided for in Article 4, the entity shall ensure that the vehicles for which it is in charge of maintenance are in a safe state of running by means of a system of maintenance. To this end, the entity in charge of maintenance shall ensure that vehicles are maintained in accordance with:

- (a) the maintenance file of each vehicle;
- (b) the requirements in force including maintenance rules and TSI provisions.

The entity in charge of maintenance shall carry out the maintenance itself or make use of contracted maintenance workshops.

4. In the case of freight wagons, each entity in charge of maintenance shall be certified by a body accredited or recognised in accordance with Commission Regulation (EU) No 445/2011¹⁹, or by a national safety authority. The recognition process shall also be based on criteria of independence, competence and impartiality.

Where the entity in charge of maintenance is an infrastructure manager, compliance with Regulation (EU) No 445/2011 shall

Amendment

Maintenance of vehicles

1. Each vehicle, before it is placed in service or used on the network, shall have an entity in charge of maintenance assigned to it and **that** entity shall be registered in the vehicle **registers** in accordance with Article 43 and Article 43a of Directive XX on interoperability of the rail system.

2. A railway undertaking, an infrastructure manager or a keeper may be an entity in charge of maintenance.

3. Without prejudice to the responsibility of the railway undertakings and infrastructure managers for the safe operation of a train as provided for in Article 4, the entity shall ensure that the vehicles for which it is in charge of maintenance are in a safe state of running by means of a system of maintenance. To this end, the entity in charge of maintenance shall ensure that vehicles are maintained in accordance with:

- (a) the maintenance file of each vehicle;
- (b) the requirements in force including maintenance rules and TSI provisions.

The entity in charge of maintenance shall carry out the maintenance itself or make use of contracted maintenance workshops.

4. In the case of freight wagons, each entity in charge of maintenance shall be certified by a body accredited or recognised in accordance with Commission Regulation (EU) No 445/2011¹⁹, or by a national safety authority. The recognition process shall also be based on criteria of independence, competence and impartiality.

Where the entity in charge of maintenance is an infrastructure manager, compliance with Regulation (EU) No 445/2011 shall

be checked by the relevant national safety authority pursuant to the procedures referred to in Article 12 and shall be confirmed on the certificates specified in those procedures.

5. The certificates granted in accordance with paragraph 4 shall be valid throughout the Union.

6. **By 31 May 2014**, the Agency shall evaluate the system of certification of the entity in charge of maintenance for freight wagons and shall **consider the opportunity for an extension of that system to all vehicles and shall** submit a report to the Commission.

be checked by the relevant national safety authority pursuant to the procedures referred to in Article 12 **of this Directive** and shall be confirmed on the certificates specified in those procedures.

5. The certificates granted in accordance with paragraph 4 shall be valid **and automatically recognised** throughout the Union.

The Agency shall set up and make public, and subsequently update without delay, a register of certified entities in charge of maintenance. It shall be linked with the national vehicle registers or the vehicle registers in accordance with Article 43(1) and (4) and Article 43a(1) and (4) of Directive... [Interoperability Directive].

The Commission shall adopt implementing acts laying down common specifications for those registers relating to content, data format, functional and technical architecture, operating mode and rules for data input and consultation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

5a. When drafting or amending TSIs, the Agency shall harmonise rules on minimum maintenance requirements in order to ensure the safety of the entire rail system. In so doing, it shall take account of the various parameters (use, age, material, mileage, weather conditions, type of track, etc.) that affect wear and tear. Companies may continue to use their own maintenance system, provided that the Agency considers that that system provides an equivalent or higher safety level.

6. **No later than two years after this Directive comes into force**, the Agency shall evaluate the system of certification of the entity in charge of maintenance for freight wagons and shall submit a report to the Commission. **That report shall contain a recommendation on whether that system of certification should be extended to other types of vehicles. The Commission shall then take appropriate measures on**

7. The Commission shall, by means of **implementing acts**, adopt common conditions for certification of the entity in charge of maintenance for all vehicles **by 24 December 2016**.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27 (2).

The certification system applicable to freight wagons adopted by Regulation (EU) No 445/2011 shall continue to apply until the **implementing acts** referred to in the first subparagraph are adopted.

¹⁹ OJ L 122, 11.5.2011, p. 22.

the basis of that recommendation.

6a. No later than six months after this Directive comes into force, the Agency shall identify railway components that are critical for railway safety and shall develop a system that enables those components to be traced.

7. On the basis of the Agency's recommendation and no later than 36 months after this Directive enters into force, the Commission shall, by means of delegated acts in accordance with Article 26, adopt common conditions for certification of the entity in charge of maintenance for all vehicles.

The certification system applicable to freight wagons adopted by Regulation (EU) No 445/2011 shall continue to apply until the **delegated acts** referred to in the first subparagraph are adopted.

¹⁹ OJ L 122, 11.5.2011, p. 22.

Amendment 83

Proposal for a directive Article 16

Text proposed by the Commission

Tasks

1. Each Member State shall establish a safety authority. This authority shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant **and** procurement entity.

Amendment

Tasks

1. Each Member State shall establish a safety authority. **Member States may also decide to jointly establish a safety authority competent for their territories.** This authority shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant **or** procurement entity. **The authority shall have the necessary expertise and the necessary staff resources in order to discharge its duties. It may be the Ministry responsible for transport matters, provided it meets the independence**

2. The national safety authority shall be entrusted with at least the following tasks:

(a) authorising the placing in service of the energy and infrastructure subsystems constituting the rail system in accordance with Article 18(2) of Directive XX on interoperability of the rail system;

(b) *supervising* that the interoperability constituents are in compliance with the essential requirements *as required* by Article [x] of Directive [XX] on interoperability of the rail system;

(c) assigning a *European* vehicle numbering in accordance with *Article 42* of Directive [XX] on interoperability of the rail system;

(d) on request *of* the Agency, supporting it in the issue, renewal, amendment and revocation of single safety certificates granted in accordance with Article 10 and checking that the conditions and requirements laid down in them are met and that railway undertakings are operating in accordance with the requirements of Union or national law;

(e) issuing, renewing, amending and revoking safety authorisations granted in accordance with Article 12 and checking that the conditions and requirements laid down in them are met and that infrastructure managers are operating in accordance with the requirements of Union or national law;

(f) monitoring, promoting, and, where appropriate, enforcing and updating the safety regulatory framework including the system of national rules;

(g) supervising the railway undertakings in accordance with Annex IV to Regulation

requirements laid down in this paragraph.

2. The national safety authority shall be entrusted with at least the following tasks:

(a) authorising the placing in service of the energy and infrastructure subsystems constituting the rail system in accordance with Article 18(2) of Directive XX on interoperability of the rail system, *with the exception of cross-border infrastructures with a single infrastructure manager, for which the Agency shall be in charge of the tasks laid down in this subparagraph;*

(b) *ensuring* that the interoperability constituents are in compliance with the essential requirements *laid down* by Article [x] of Directive [XX] on interoperability of the rail system;

(c) assigning a *national* vehicle numbering in accordance with *Articles 20a and 43* of Directive [XX] on interoperability of the rail system;

(d) on request *by* the Agency *and on the basis of contractual agreements as referred to in Regulation [Regulation on the European Railway Agency]*, supporting it in the issue, renewal, amendment and revocation of single safety certificates granted in accordance with Article 10 and checking that the conditions and requirements laid down in them are met and that railway undertakings are operating in accordance with the requirements of Union or national law;

(e) issuing, renewing, amending and revoking safety authorisations granted in accordance with Article 12 and checking that the conditions and requirements laid down in them are met and that infrastructure managers are operating in accordance with the requirements of Union or national law;

(f) monitoring, promoting, and, where appropriate, enforcing and updating the safety regulatory framework including the system of national rules;

(g) supervising the railway undertakings in accordance with Annex IV to Regulation

(EU) No 1158/2010²⁰ and with Regulation (EU) No 1077/2012²¹;

(h) *supervising* that vehicles are duly registered in the *national* vehicle *register* and that safety-related information contained in *it* is accurate and up to date.

(EU) No 1158/2010²⁰ and with Regulation (EU) No 1077/2012²¹;

(h) *ensuring* that vehicles are duly registered in the *European and* national vehicle *registers* and that safety-related information contained in *those registers* is accurate and up to date;

(ha) monitoring compliance with working, driving and rest time rules for locomotive drivers in the railway companies and on the track;

(hb) monitoring compliance with applicable rules on the safe maintenance and operation of rail freight wagons and other rolling stock;

(hc) drawing up a general emergency plan for the rail network which shall be mandatory for all rail system actors and which shall detail the measures to be taken in the event of a serious accident or emergency, and forwarding it to the Agency. That plan shall include:

(i) mechanisms and procedures guaranteeing effective communication between the actors involved, chiefly between infrastructure managers, rail operators and emergency services;

(ii) mechanisms for coordination with national agencies of neighbouring countries;

(iii) channels for communicating with victims' families following a serious accident, in order to interact with staff who have been trained for the various tasks;

(iv) a system for providing care for victims following an accident, which will guide them in the complaints procedures under Union legislation, and in particular Regulation (EC) No. 1371/2007 of the European Parliament and of the Council^{21a}, without prejudice to the obligations of rail operators. Such care shall include psychological support for accident victims and their families.

The Commission shall, as a matter of urgency, draw up measures aimed at

3. The national safety authority of the Member State where the railway undertaking operates shall make necessary arrangements to coordinate with the Agency and other safety authorities to ensure that any key information on the specific railway undertaking is shared, particularly on known risks and its safety performance. The national safety authority shall also share information with other relevant national safety authorities if it finds that the railway undertaking is not taking the necessary risk control measures.

It shall inform the Agency immediately of any concerns about the safety performance of the railway undertakings under supervision. The Agency shall take appropriate action provided for in Article 10(6).

4. The tasks referred to in paragraph 2 may not be transferred or subcontracted to any infrastructure manager, railway undertaking or procurement entity.

²⁰ OJ L 326, 10.12.2010, p.11.

²¹ OJ L 320, 17.11.2012, p. 3.

harmonising the content and format of emergency plans by means of implementing acts as provided for in Article 27. The Agency shall assist and supervise the national safety authorities in drawing up those plans, paying particular attention to rail accidents affecting two or more national networks.

3. The national safety authority of the Member State where the railway undertaking operates shall make necessary arrangements to coordinate with the Agency and other safety authorities to ensure that any key information on the specific railway undertaking is shared, particularly on known risks and its safety performance. The national safety authority shall also share information with other relevant national safety authorities if it finds that the railway undertaking is not taking the necessary risk control measures.

It shall inform the Agency immediately of any concerns about the safety performance of the railway undertakings under supervision. The Agency shall take appropriate action ***as*** provided for in Article 10(6).

4. The tasks referred to in paragraph 2 may not be transferred or subcontracted to any infrastructure manager, railway undertaking or procurement entity.

4a. National safety authorities shall, with the help of the Agency, establish mechanisms for the exchange of examples of good and best practice.

5a. National safety authorities may, on a voluntary basis, request the Agency to audit their work. The Agency may also audit national safety authorities on its own initiative.

²⁰ OJ L 326, 10.12.2010, p.11.

²¹ OJ L 320, 17.11.2012, p. 3.

^{21a} ***Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315,***

Amendment 84

Proposal for a directive Article 17

Text proposed by the Commission

Decision-making principles

1. The national safety authorities shall carry out their tasks in an open, non-discriminatory and transparent way. In particular they shall allow all parties to be heard and give reasons for their decisions.

They shall promptly respond to requests and applications **and communicate their requests for information without delay and adopt all their decisions within four months after all requested information has been provided. They may at any time request the technical assistance of infrastructure managers and railway undertakings or other qualified bodies when they are carrying out the tasks referred to in Article 16.**

They may at any time request the technical assistance of infrastructure managers and railway undertakings or other qualified bodies when they are carrying out the tasks referred to in Article 16.

In the process of developing the national regulatory framework, the national safety authority shall consult all persons involved and interested parties, including infrastructure managers, railway undertakings, manufacturers and maintenance providers, users and staff representatives.

2. The Agency and the national safety authorities shall be free to carry out all inspections and investigations that are needed for accomplishment of their tasks and **they** shall be granted access to all relevant documents and to premises, installations and equipment of infrastructure managers and railway undertakings.

Amendment

Decision-making principles

1. The national safety authorities shall carry out their tasks in an open, non-discriminatory and transparent way. In particular, they shall allow all parties to be heard and give reasons for their decisions.

They shall promptly respond to requests and applications, **respecting the time-limits laid down in Article 11(1) and any obligations laid down in contractual agreements concluded with the Agency.**

They may at any time request the technical assistance of infrastructure managers and railway undertakings or other qualified bodies when they are carrying out the tasks referred to in Article 16.

In the process of developing the national regulatory framework, the national safety authority shall consult **and consider** all persons involved and interested parties, including infrastructure managers, railway undertakings, manufacturers and maintenance providers, users and staff representatives.

2. The Agency and the national safety authorities shall be free to carry out all inspections, **audits** and investigations that are needed for accomplishment of their tasks and shall be granted access to all relevant documents and to premises, installations and equipment of infrastructure managers and railway undertakings.

3. Member States shall take the measures necessary to ensure that decisions taken by the national safety authority are subject to judicial review.

4. The national safety authorities shall conduct an active exchange of views and experience within the network established by the Agency in order to harmonise their decision-making criteria across the Union.

5. The scope of cooperation between the Agency and the national safety authorities in all matters relating to inspections on site related to issuing the single safety certificate and supervision of the railway undertakings after issuing the single safety certificate shall be set out in contractual *or other arrangements* between the Agency and the national safety authorities.

3. Member States shall take the measures necessary to ensure that decisions taken by the national safety authority are subject to judicial review.

4. The national safety authorities shall conduct an active exchange of views and experience within the network established by the Agency in order to harmonise their decision-making criteria across the Union.

4a. The national safety authorities shall support the Agency in its work of monitoring the development of railway safety on a Union level.

5. The scope of cooperation between the Agency and the national safety authorities in all matters relating to inspections on site related to issuing the single safety certificate and supervision of the railway undertakings after issuing the single safety certificate shall be set out in contractual ***agreements*** between the Agency and the national safety authorities ***no later than one year after the entry into force of this Directive.***

Those agreements may include contracting out certain tasks and responsibilities of the Agency to the national authorities, such as checking and preparing files, verifying technical compatibility, performing visits and drafting technical studies, in accordance with Article 69 of Regulation ... [Regulation on European Union Agency for Railways].

Those agreements shall provide for a sharing of revenues commensurate with the share in the workload of each actor.

Amendment 85

Proposal for a directive Article 18 – point f a (new)

Text proposed by the Commission

Amendment

(fa) all technical inspections of rail freight wagons on the track;

Amendment 86

Proposal for a directive

Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. In accordance with the legislation in force, Member States shall ensure full cooperation by the authorities responsible for the judicial inquiry, and shall ensure that the investigators are, as soon as possible, *given*:

Amendment

2. In accordance with the legislation in force, Member States shall ensure full cooperation by the authorities responsible for the judicial inquiry, and shall ensure that the investigators, *as well as the Agency if it so requests*, are *given*, as soon as possible:

Amendment 87

Proposal for a directive

Article 21 – paragraph 2

Text proposed by the Commission

2. The investigating body shall perform its tasks independently of the organisations referred to in paragraph 1 and shall be able to obtain sufficient resources to do so. Its investigators shall be afforded status giving them the necessary guarantees of independence.

Amendment

2. The investigating body shall perform its tasks independently of the organisations referred to in paragraph 1, *without discriminating against any party*, and shall be able to obtain sufficient resources to do so. Its investigators shall be afforded status giving them the necessary guarantees of independence.

Amendment 88

Proposal for a directive

Article 21 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Investigating bodies may, on a voluntary basis, request the Agency to audit their work.

Amendment 89

Proposal for a directive

Article 21 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The Agency shall support the investigating

Amendment

The Agency shall support the investigating bodies in this task. *In addition*,

bodies in this task.

investigating bodies shall support the Agency in its work of monitoring the development of railway safety on a Union level.

Amendment 90

Proposal for a directive

Article 22 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Investigation bodies from another Member State shall be invited to participate in an investigation whenever a railway undertaking established and licensed in that Member State is involved in the accident or incident.

Amendment

Investigation bodies from another Member State **and the Agency** shall be invited to participate in an investigation whenever a railway undertaking established and licensed in that Member State is involved in the accident or incident.

Amendment 91

Proposal for a directive

Article 22 – paragraph 2

Text proposed by the Commission

2. For each accident or incident the body responsible for the investigation shall arrange for the appropriate means, comprising the necessary operational and technical expertise to carry out the investigation. The expertise may be obtained from inside or outside the body, depending on the character of the accident or incident to be investigated.

Amendment

2. For each accident or incident the body responsible for the investigation shall arrange for the appropriate means, comprising the necessary operational and technical expertise **and sufficient resources** to carry out the investigation. The expertise may be obtained from inside or outside the body, depending on the character of the accident or incident to be investigated.

Amendment 92

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The investigating body shall make public the final report in the shortest possible time and **normally** not later than **12** months after the date of the occurrence. The report, **including the safety recommendations**, shall be communicated to the relevant parties referred to in Article

Amendment

2. The investigating body shall make public the final report, **including the safety recommendations**, in the shortest possible time and not later than **six** months after the date of the occurrence. The report shall be communicated to the relevant parties referred to in Article 22(3) and to bodies

22(3) and to bodies and parties concerned in other Member States.

and parties concerned in other Member States.

Amendment 93

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Commission shall establish, by means of **implementing** acts, the content of accident and incident investigation reports. Those **implementing** acts shall be adopted in accordance with the **examination** procedure referred to in Article 27(2).

Amendment

The Commission shall establish, by means of **delegated** acts, the content of accident and incident investigation reports, **which shall include the following elements: a summary; the immediate facts of the occurrence; the record of investigations and inquiries; analysis and conclusions.** Those **delegated** acts shall be adopted in accordance with the procedure referred to in Article 26.

Amendment 94

Proposal for a directive

Article 24 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Agency shall set up and manage a centralised database containing all information submitted in relation to incidents and accidents. That database shall be established by no later than 31 December 2015.

Amendment 95

Proposal for a directive

Article 26 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 5(2) **and** 7(2) shall be conferred on the Commission for **an indeterminate** period of **time**.

Amendment

2. The power to adopt delegated acts referred to in Articles 5(2), 7(2), **9(2), 14(7) and 23(2)** shall be conferred on the Commission for **a period of five years from [the date of entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The**

delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment 96

Proposal for a directive Article 28

Text proposed by the Commission

On the basis of relevant information provided by the Agency, the Commission shall submit to the European Parliament and to the Council before [specific date to be inserted by OPOCE - **five** years after the date of entry into force] and every **five** years thereafter a report on the implementation of this Directive.

Amendment

On the basis of relevant information provided by the Agency, the Commission shall submit to the European Parliament and to the Council before [specific date to be inserted by OPOCE - **three** years after the date of entry into force] and every **three** years thereafter a report on the implementation of this Directive.

Amendment 97

Proposal for a directive Article 30

Text proposed by the Commission

Transitional provisions

Annexes III and V to Directive 2004/49/EC shall apply until the date of application of the implementing acts referred to in Articles 6(2) and (3), 9(2), 14(7) and 23(2) of this Directive.

Until [specific date to be inserted by OPOCE - **two years** after the date of entry into force], the national safety authorities **shall** continue to grant safety certificates in accordance with the provisions of Directive 2004/49/EC. Such safety certificates shall be valid until their date of expiry.

Amendment

Transitional provisions

Annexes III and V to Directive 2004/49/EC shall apply until the date of application of the implementing acts referred to in Articles 6(2) and (3), 9(2), 14(7) and 23(2) of this Directive.

Until [specific date to be inserted by OPOCE - **four years** after the date of entry into force], the national safety authorities **may** continue to grant safety certificates in accordance with the provisions of Directive 2004/49/EC, **without prejudice to Article 10(2a)**. Such safety certificates shall be valid until their date of expiry.

For an additional period of three years after the one-year transposition period laid down in Article 32, applicants may apply either to the Agency or the national safety authority. During that period,

national safety authorities may continue to issue safety certificates in accordance with Directive 2004/49/EC.

Amendment 98

Proposal for a directive Article 32 – paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with **Articles 2, 3, 4, 8, 10, 16, 18, 20** and Annex I by [specific date to be inserted by OPOCE - **two years** after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with **the provisions of this Directive** by [specific date to be inserted by OPOCE - **one year** after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 99

Proposal for a directive Article 33 – paragraph 1

Text proposed by the Commission

Directive 2004/49/EC, as amended by the Directives listed in Annex II, Part A, is repealed with effect from [specific date to be inserted by OPOCE –**two years** after the date of entry into force], without prejudice to the obligations of the Member States concerning the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.

Amendment

Directive 2004/49/EC, as amended by the Directives listed in Annex II, Part A, is repealed with effect from [specific date to be inserted by OPOCE –**four years** after the date of entry into force], without prejudice to the obligations of the Member States concerning the time limits for transposition into national law and application of the Directives set out in Annex II, Part B.

Amendment 100

Proposal for a directive Article 34

Text proposed by the Commission

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the*

Amendment

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the*

European Union.

Articles 10 and 11 shall apply from [specific date to be inserted by OPOCE - **two years** after the date of entry into force].

European Union.

Articles 10 and 11 shall apply from [specific date to be inserted by OPOCE - **four years** after the date of entry into force], **without prejudice to the transitional provisions set out in Article 30.**

Amendment 101

Proposal for a directive Annex I – point 2 – introductory part

Text proposed by the Commission

Total and relative (to train-kilometres) number of accidents involving the transport of dangerous goods divided into the following categories:

Amendment

Total and relative (to train-kilometres) number of accidents **and incidents** involving the transport of dangerous goods divided into the following categories:

Amendment 102

Proposal for a directive Appendix – point 1 – point 1.9

Text proposed by the Commission

1.9. 'accidents to persons **involving** rolling stock in motion' means accidents to one or more persons who are either hit by a railway vehicle or by an object attached to, or that has become detached from, the vehicle. Persons who fall from railway vehicles are included, as well as persons who fall or are hit by loose objects when travelling on board vehicles.

Amendment

1.9. 'accidents to persons **caused by** rolling stock in motion' means accidents to one or more persons who are either hit by a railway vehicle or by an object attached to, or that has become detached from, the vehicle. Persons who fall from railway vehicles are included, as well as persons who fall or are hit by loose objects when travelling on board vehicles.