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INFORMATION NOTE

from: General Secretariat
to: Special Committee on Agriculture/Council
Subject: Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004
- Outcome of the European Parliament's first reading
(Strasbourg, 24 to 27 February 2014)

I. INTRODUCTION

The rapporteur, Mr Roberts ZĪLE (ECR, LV), presented a report on the abovementioned proposal, on behalf of the Committee on Transport and Tourism. The report contained 161 amendments (amendments 1 - 161).

In addition, two other amendments (amendments 162 and 163) 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 160 amendments to the proposal.

All but one of the Committee's amendments (amendment 51) were adopted, amendment 8 only partially. No other amendments were adopted.

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

¹ See also documents 6816/14, 6821/14, 6822/14 and 6830/14.

European Union Agency for Railways ***I

European Parliament legislative resolution of 26 February 2014 on the proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (COM(2013)0027 – C7-0029/2013 – 2013/0014(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0027),
 - 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 (C7-0029/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - 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 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 Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Budgets and the Committee on Budgetary Control (A7-0016/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Requests that the Commission present a financial statement which fully takes into account the result of the legislative agreement between the European Parliament and the Council on all pieces of legislation within the Fourth Railway Package to meet the budgetary and staff requirements of ERA and possibly of the Commission services;
 3. Emphasises that any decision of the legislative authority on the draft regulation shall be without prejudice to the decisions of the budgetary authority in the context of the annual budgetary procedure;
 4. Calls on the Commission to refer the matter to Parliament again if it intends to amend its

¹ OJ C 327 of 12.11.2013, p. 122

² OJ C 356 of 5.12.2013, p. 92

proposal substantially or replace it with another text;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) The European Railway Agency was originally established by Regulation (EC) 881/2004 of the European Parliament and of the Council of 29 April 2004⁷, in order to promote the establishment of a European railway area without borders and to help revitalise the railway sector while reinforcing its essential advantages in terms of safety. Regulation 881/2004 has to be replaced by a new act due to substantial **amount of** changes to the tasks of the Agency and its internal organisation.

⁷ OJ L 164, 30.4.2004, p. 1.

Amendment

(3) The European Railway Agency was originally established by Regulation (EC) 881/2004 of the European Parliament and of the Council of 29 April 2004⁷, in order to promote the establishment of a European railway area without borders and to help revitalise the railway sector while reinforcing its essential advantages in terms of safety. Regulation 881/2004 has to be replaced by a new act due to **the** substantial changes **which are required in relation** to the tasks of the Agency and its internal organisation.

⁷ OJ L 164, 30.4.2004, p. 1.

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The Fourth Railway Package proposes important changes to improve the functioning of the **Single** European railway area through amendments by way of recast to Directive 2004/49/EC and Directive 2008/57/EC, both directly linked to the tasks of the Agency. Those Directives, together with this Regulation, provide in particular for performing tasks related to issuing vehicle authorisations and safety certificates at the Union level. It implies a greater role of the Agency.

Amendment

(4) The Fourth Railway Package proposes important changes to improve the functioning of the **single** European railway area through amendments by way of recast to Directive 2004/49/EC and Directive 2008/57/EC, both directly linked to the tasks of the Agency. Those Directives, together with this Regulation, provide in particular for performing tasks related to issuing vehicle authorisations and safety certificates, **especially in cross-border traffic** at the Union level. It implies

a greater role of the Agency.

Amendment 3

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The Agency should contribute to the creation and effective functioning of a Single European railway area without frontiers and guaranteeing a high level of safety while improving the competitive position of the railway sector. That should be attained by contributing, on technical matters, to the implementation of European Union legislation by enhancing the level of interoperability of railway systems and to developing a common approach to safety on the European railway system. The Agency should also perform the role of European authority responsible for issuing authorisations for placing on the market **for railway vehicles** and for types of vehicles, safety certificates for railway undertakings and authorisations for placing in service of trackside **control-command and signalling** sub-systems. Moreover, it should monitor national railway rules and the performance of national authorities acting in the railway interoperability and safety fields.

Amendment

(5) The Agency should contribute to the creation and effective functioning of a Single European railway area without frontiers and guaranteeing a high level of safety while improving the competitive position of the railway sector. That should be attained by contributing, on technical matters, to the implementation of European Union legislation by enhancing the level of interoperability of railway systems and to developing a common approach to safety on the European railway system. The Agency should also perform the role of European authority responsible for issuing, **at Union level**, authorisations for placing **railway vehicles** on the market and for types of vehicles, safety certificates for railway undertakings and authorisations for placing in service of trackside **European Rail Traffic Management System (ERTMS)** sub-systems **located or operated throughout the Union**. Moreover, it should monitor national railway rules and the performance of national authorities acting in the railway interoperability and safety fields.

Amendment 4

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) In pursuing its objectives, the Agency should take full account of the process of enlargement of the Union **and of** the specific constraints relating to rail links

Amendment

(6) In pursuing its objectives, the Agency should take full account of the process of enlargement of the Union, the specific constraints relating to rail links with third

with third countries. *The Agency should have sole responsibility for the functions and powers assigned to it.*

countries, *and the specific situation of rail networks with a different track gauge, particularly where the Member States are well integrated into those networks together with third countries but isolated from the main Union rail network. It should also seek to facilitate the principle of reciprocity between access for third countries to the Union market and access for Union undertakings to the markets of third countries.*

Amendment 5

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The Agency should have sole responsibility for the functions and powers assigned to it. National safety authorities should have sole responsibility for the decisions that they take.

Amendment 6

Proposal for a regulation Recital 7

Text proposed by the Commission

Amendment

(7) The Agency, while performing its tasks, and particularly in relation to drafting recommendations, should take utmost account of external railway expertise. This expertise should predominantly consist of *professionals* from the *railway sector and the* relevant national authorities. They should form competent and representative working parties of the Agency.

(7) The Agency, while performing its tasks, and particularly in relation to drafting recommendations, should take utmost account of external railway expertise. This expertise should predominantly consist of *experts* from the *national safety authorities and other* relevant national authorities *as well as professionals from the railway sector, including representative bodies and independent notified conformity assessment bodies.* They should form competent and representative working

parties of the Agency. *The Agency should bear in mind the need to maintain a balance between risks and benefits, in particular as regards the management of conflicts of interest, on the one hand, and the objective of obtaining the best possible expertise, on the other.*

Amendment 7

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Railway undertakings have been faced with various problems when applying for safety certificates to competent national authorities, ranging from protracting procedures and excessive costs to unfair treatment, especially of new entrants. The certificates issued in one Member State have not been unconditionally recognised in other Member States, with a detriment to the Single European rail area. In order to make the procedures for issuing safety certificates to railway undertakings more efficient and impartial, it is essential to migrate towards a single safety certificate valid throughout the Union and issued by the Agency. The revised Directive ... [Railway Safety Directive] provides a basis for this.

Amendment

(10) Railway undertakings have been faced with various problems when applying for safety certificates to competent national authorities, ranging from protracting procedures and excessive costs to unfair treatment, especially of new entrants. The certificates issued in one Member State have not been unconditionally recognised in other Member States, with a detriment to the Single European rail area. In order to make the procedures for issuing safety certificates to railway undertakings more efficient and impartial, it is essential to migrate towards a single safety certificate valid throughout the Union *within the specified areas of operation* and issued by the Agency. The revised Directive ... [Railway Safety Directive] provides a basis for this.

Amendment 8

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In an open European railway market with increasing cross-border operations, the respect of requirements on

driving and rest time is essential for railway safety and for fair competition and should be controlled and enforced. National safety authorities should monitor driving and rest times, including for cross-border operations.

Amendment 9

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) On-board personnel perform operational safety tasks within the railway system and are responsible for passengers' comfort and safety on-board trains. A certification similar to the certification of locomotive drivers should be set up by the Agency in order to guarantee a high level of qualifications and competences, to recognise the importance of this professional group for safe rail services and also in order to facilitate the mobility of workers.

Amendment 10

Proposal for a regulation Recital 12

Text proposed by the Commission

Amendment

(12) In order to further pursue the development of Single European rail area, in particular with relation to providing appropriate information to freight customers and passengers, and taking into account current involvement of the Agency, it is necessary to give it a strengthened role in the field of telematics applications. This would ensure their consistent development and swift deployment.

(12) In order to further pursue the development of Single European rail area, in particular with relation to providing appropriate information to freight customers and passengers, and taking into account current involvement of the Agency, it is necessary to give it a strengthened role in the field of telematics applications *within a flexible framework ensuring interoperability as well as enabling innovative commercial strategies to coexist*. This would ensure their consistent development and swift deployment.

Amendment 11

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) Given the importance of the European Rail Traffic Management System (ERTMS) for the smooth development of the Single European railway area and its safety, and taking into account *its fragmented* development to date, it is necessary to strengthen its overall coordination at the Union level. Therefore the Agency, as the most competent Union body, should be given a more prominent role in this field to ensure consistent development of the ERTMS, to contribute to ensuring that ERTMS equipment complies with the specifications in force and to ensure that ERTMS-related European research programmes are coordinated with the development of ERTMS technical specifications. Moreover, in order to make the procedures for issuing authorisations for placing in service of trackside control-command and signalling sub-systems more efficient and impartial, it is essential to migrate towards a single authorisation valid in the Union and issued by the Agency. The revised Directive ... [Railway Interoperability Directive] provides a basis for this.

Amendment

(13) Given the importance of the European Rail Traffic Management System (ERTMS) for the smooth development of the Single European railway area and its safety, and taking into account *the failure of the development and deployment* to date, it is necessary to strengthen its overall coordination at the Union level. *The objective of achieving interoperability and harmonisation of train control and signalling systems across the Union is currently seriously undermined by a multitude of diverging national versions of ERTMS.*

Therefore the Agency, as the most competent Union body, should be given a more prominent role in this field to ensure consistent development of the ERTMS, to contribute to ensuring that ERTMS equipment complies with the specifications in force and to ensure that ERTMS-related European research programmes are coordinated with the development of ERTMS technical specifications. Moreover, in order to make the procedures for issuing authorisations for placing in service of trackside control-command and signalling sub-systems more efficient and

impartial, it is essential to migrate towards a single authorisation valid in the Union and issued by the Agency. The revised Directive ... [Railway Interoperability Directive] provides a basis for this.

Amendment 12

Proposal for a regulation

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) During recent years, several accidents in the rail freight sector illustrated the need to improve the rules at Union level for the maintenance of freight wagons. The Agency should work on harmonised compulsory requirements for regular maintenance intervals.

Amendment 13

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) Competent national authorities have been normally charging for issuing vehicle authorisations and safety certificates. With the transfer competence to the Union level, the Agency should be entitled to charge the applicants for issuing the certificates and authorisations mentioned in the preceding recitals. The level of those charges should ***be equal to or lower than the current average*** in the *Union* and should be determined in a delegated act to be adopted by the Commission.

(14) Competent national authorities have been normally charging for issuing vehicle authorisations and safety certificates. With the transfer competence to the Union level, the Agency should be entitled to charge the applicants for issuing the certificates and authorisations mentioned in the preceding recitals. The level of those charges should ***vary according to the extent of operations and area of use specified in the certificate or authorisation*** and should be determined in a delegated act to be adopted by the Commission. ***Establishment plan posts financed by those charges should not be subject to the staff reductions envisaged for all Union institutions and bodies.***

Amendment 14

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) That delegated act should ensure that the level of charges does not exceed the costs of the certification or authorisation procedures in question.

Amendment 15

Proposal for a regulation Recital 15

Text proposed by the Commission

Amendment

(15) It is a general objective that the transfer of functions and tasks from the Member States to the Agency should be done efficiently, without any reduction in the current high levels of safety. The Agency should have sufficient resources for its new tasks, and the timing of the allocation of these resources should be based on clearly defined needs. Taking into account the know-how of national authorities, in particular the National Safety Authorities, the Agency should be allowed to make appropriate use of that expertise when granting the relevant authorisations and certificates. To this end, secondment of national experts to the Agency should be encouraged.

(15) It is a general objective that the transfer of functions and tasks from the Member States to the Agency should be done efficiently, without any reduction in the current high levels of safety. The Agency should have sufficient resources for its new tasks, and the timing of the allocation of these resources should be based on clearly defined needs. Taking into account the know-how of national authorities, in particular the National Safety Authorities, the Agency should be allowed to make appropriate use of that expertise ***including through contractual agreements*** when granting the relevant authorisations and certificates. To this end, secondment of national experts to the Agency should be ***strongly*** encouraged, ***promoted and facilitated***.

Amendment 16

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) Directive ... [Railway Safety] and Directive ... [Railway Interoperability] provide for examination of national measures from the point of view of safety and interoperability, and compatibility with competition rules. They also limit the possibility for Member States to adopt new national rules. The current system in which a large number of national rules continue to exist leads to possible conflicts with Union rules and creates a risk of insufficient transparency and disguised discrimination of foreign operators, especially the smaller and new ones. In order to migrate towards a system of truly, transparent and impartial railway rules at Union level, gradual reduction of national rules needs to be reinforced. An opinion based on independent and neutral expertise is essential at Union level. To this end, the role of the Agency needs to be strengthened.

Amendment

(16) Directive ... [Railway Safety] and Directive ... [Railway Interoperability] provide for examination of national measures from the point of view of safety and interoperability, and compatibility with competition rules. They also limit the possibility for Member States to adopt new national rules. The current system in which a large number of national rules continue to exist leads to possible **safety risks and** conflicts with Union rules and creates a risk of insufficient transparency and disguised discrimination of foreign operators, especially the smaller and new ones. In order to migrate towards a system of truly, transparent and impartial railway rules at Union level, gradual reduction of national rules, **including operational rules**, needs to be reinforced. An opinion based on independent and neutral expertise is essential at Union level. To this end, the role of the Agency needs to be strengthened.

Amendment 17

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Performance, organisation and decision-making procedures in the field of railway interoperability and safety vary substantially among the national safety authorities and notified conformity assessment bodies, with a detrimental effect to smooth operation of the Single European rail area. In particular, small and medium companies wishing to enter the railway market in another Member State can be negatively affected. Therefore, a strengthened coordination with a view to greater harmonisation at the Union level is essential. To this end, the Agency should monitor the national safety authorities **and**

Amendment

(17) Performance, organisation and decision-making procedures in the field of railway interoperability and safety vary substantially among the national safety authorities and notified conformity assessment bodies, with a detrimental effect to smooth operation of the Single European rail area. In particular, small and medium companies wishing to enter the railway market in another Member State can be negatively affected. Therefore, a strengthened coordination with a view to greater harmonisation at the Union level is essential. To this end, the Agency should monitor the national safety authorities

notified conformity assessment bodies through audits and inspections.

through audits and inspections. ***Monitoring of the notified conformity assessment bodies should be carried out by the national accreditation bodies in accordance with Article 5(3) of Regulation (EC) No 765/2008 . Equal monitoring of the performance of the Agency is also required.***

Amendment 18

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) The interoperability of the Trans-European network should be enhanced and ***the*** new investment projects chosen for support by the Union should be in line with the objective of interoperability set in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the Trans-European transport network. The Agency is the right institution to contribute to these objectives.

Amendment

(20) The interoperability of the Trans-European network should be enhanced and ***both ongoing and*** new investment projects chosen for support by the Union should be in line with the objective of interoperability set in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the Trans-European transport network. The Agency is the right institution to contribute to these objectives.

Amendment 19

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) In order to ensure the greatest possible transparency and equal access for all parties to relevant information, the documents envisaged for the railway interoperability and safety processes should be accessible to the public. The same applies to licences, safety certificates and other relevant railway documents. The Agency should provide ***an efficient*** means of exchanging and publishing this

Amendment

(24) In order to ensure the greatest possible transparency and equal access for all parties to relevant information, the documents envisaged for the railway interoperability and safety processes should be accessible to the public. The same applies to licences, safety certificates and other relevant railway documents. The Agency should provide ***efficient, user-friendly and easily accessible*** means of

information.

exchanging and publishing this information.

Amendment 20

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) In order to increase the efficiency of the Union financial support, its quality and compatibility with relevant technical regulations, the Agency, ***as the only Union body with reputable competence*** in the ***railway field, should play an active role in the*** assessment of rail projects.

Amendment

(26) In order to increase the efficiency of the Union financial support, its quality and compatibility with relevant technical regulations, the Agency ***should play an active role*** in the assessment of rail projects ***with European added value, in close cooperation with national infrastructure managers.***

Amendment 21

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Railway interoperability and safety legislation, implementation guides or recommendations of the Agency may sometimes pose interpretation and other problems to the stakeholders. Proper and uniform understanding of those acts is a precondition for effective implementation of the railway acquis and the functioning of the railway market. Therefore, the Agency should actively engage in training and explanatory activities in that regard.

Amendment

(27) Railway interoperability and safety legislation, implementation guides or recommendations of the Agency may sometimes pose interpretation and other problems to the stakeholders. Proper and uniform understanding of those acts is a precondition for effective implementation of the railway acquis and the functioning of the railway market. Therefore, the Agency should actively engage in training and explanatory activities in that regard, ***while giving particular attention to small and medium-sized enterprises.***

Amendment 22

Proposal for a regulation

Recital 27 a (new)

(27a) The Agency should cooperate fully with, and give the maximum possible assistance to, national authorities carrying out civil or criminal investigations when the investigations concern issues for which the Agency has responsibility.

Amendment 23

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) In order to perform its tasks properly, the Agency should have legal personality and an autonomous budget funded mainly through a contribution by the Union and through fees and charges paid by applicants. In order to ensure independence in its daily management and in the opinions, recommendations and decisions which it issues, the Agency's organisation should be transparent, the Executive Director should have full responsibility. The Agency's staff should be independent and should represent an appropriate balance of short-term and long-term contracts, in order to maintain its organisational knowledge and business continuity while keeping necessary and on-going exchange of expertise with the railway sector.

Amendment

(28) In order to perform its tasks properly, the Agency should have legal personality and an autonomous budget funded mainly through a contribution by the Union and through fees and charges paid by applicants. ***The Union contribution should be assessed and revised each time new powers are added which are not subject to fees or charges paid by applicants. The Agency's independence and impartiality should not be compromised by any financial contributions that it receives from Member States, third countries or other entities.*** In order to ensure independence in its daily management and in the opinions, recommendations and decisions which it issues, the Agency's organisation should be transparent, the Executive Director should have full responsibility. The Agency's staff should be independent and should represent an appropriate balance of short-term and long-term contracts, ***of seconded national experts and permanent officials***, in order to maintain its organisational knowledge and business continuity while keeping necessary and on-going exchange of expertise with the railway sector.

Amendment 24

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) In order to guarantee the transparency of the Management Board's decisions, representatives of the sectors concerned should attend its meetings, but without the right to vote, that right being reserved for the representatives of public authorities who are accountable to the democratic control authorities. The representatives of the sector should be appointed by the Commission on the basis of their representativeness at Union level of railway undertakings, infrastructure managers, railway industry, workers unions, passengers and freight customers.

Amendment

(30) In order to guarantee the transparency of the Management Board's decisions, representatives of the sectors concerned should attend its meetings, but without the right to vote, that right being reserved for the representatives of public authorities who are accountable to the democratic control authorities. The representatives of the sector should be appointed by the Commission on the basis of their representativeness at Union level of railway undertakings, infrastructure managers, railway industry, ***notified bodies, designated bodies***, workers unions, passengers and, ***in particular, passengers with reduced mobility, and also*** freight customers.

Amendment 25

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) It is necessary to ensure that parties affected by decisions made by the Agency enjoy the necessary remedies in an independent and impartial manner. An appropriate appeal mechanism should be set up so that decisions of the Executive Director can be subject to appeal to a specialised Board of Appeal, whose decisions are, in turn, open to action before the Court of Justice.

Amendment

(32) It is necessary to ensure that parties affected by decisions made by the Agency enjoy the necessary remedies in an independent and impartial manner. An appropriate appeal mechanism should be set up so that decisions of the Executive Director can be subject to appeal to a specialised Board of Appeal ***that acts in complete independence from the Commission, the Agency, national safety authorities and any actor in the railway sector***, whose decisions are, in turn, open to action before the Court of Justice.

Amendment 26

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) The Agency staff advising a Board of Appeal should not themselves have been previously involved in the decision under appeal.

Amendment 27

Proposal for a regulation Recital 34

Text proposed by the Commission

Amendment

(34) The Agency's work should be transparent. Effective control by the European Parliament should be ensured and, to this end, the European Parliament should have the possibility of hearing the Executive Director of the Agency and being consulted on the multi-annual work ***programme***. The Agency should also apply the relevant Union legislation concerning public access to documents.

(34) The Agency's work should be transparent. Effective control by the European Parliament should be ensured and, to this end, the European Parliament should have the possibility of hearing the Executive Director of the Agency and being consulted on the multi-annual ***and annual*** work ***programmes***. The Agency should also apply the relevant Union legislation concerning public access to documents.

Amendment 28

Proposal for a regulation Recital 35

Text proposed by the Commission

Amendment

(35) Over the past years, as more decentralised agencies have been created, the budgetary authority has looked to improve transparency and control over

(35) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud

the management of the Union funding allocated to them, in particular concerning the budgetisation of fees, financial control, power of discharge, pension scheme contributions and the internal budgetary procedure (code of conduct). In a similar way, Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)⁹ should apply without restriction to the Agency, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office¹⁰.

⁹ OJ L 136, 31.5.1999, p. 1.

¹⁰ OJ L 136, 31.5.1999, p. 15.

Office (OLAF)⁹ should apply without restriction to the Agency, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office¹⁰.

⁹ OJ L 136, 31.5.1999, p. 1.

¹⁰ OJ L 136, 31.5.1999, p. 15.

Amendment 29

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) In order to properly determine the level of fees and charges which the Agency is entitled to levy, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of articles dealing with issuing and renewal of authorisations for placing in service of trackside **control-command and signalling** subsystems, authorisations for placing on the market for vehicles and for types of vehicles, and safety certificates. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Amendment

(37) In order to properly determine the level of fees and charges which the Agency is entitled to levy, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of articles dealing with issuing and renewal of authorisations for placing in service of trackside **ERTMS** subsystems, authorisations for placing on the market for vehicles and for types of vehicles, and safety certificates. ***A differentiated level of fees and charges should be applied according to the areas of use and extent of operations specified in safety certificates and authorisations.*** It is of particular importance that the Commission carry out appropriate

consultations during its preparatory work, including at expert level. ***Fees and charges should be set in a transparent, fair and uniform manner and should not jeopardize the competitiveness of the European industries concerned.***

Amendment 30

Proposal for a regulation Recital 37 a

Text proposed by the Commission

Amendment

(37a) In order to properly encourage the standardisation of railway spare parts, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of standardisation regarding spare parts. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Amendment 31

Proposal for a regulation Article 1 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) certification of train drivers provided for in Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community [Train Drivers Directive].

(c) certification of train drivers provided for in Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community ***and certification of all safety-relevant staff.***

Amendment 32

Proposal for a regulation Article 1 – paragraph 3 a (new)

3a. The objectives of the Agency shall be to ensure a high level of rail safety and to help complete the Single European Rail Area. These objectives shall be achieved by:

(a) contributing, on technical matters, to the implementation of Union legislation aimed at enhancing the level of interoperability of the railway system and developing a common approach to safety on the Union railway system;

(b) acting as a European authority, in cooperation with the Member States, for authorising the placing of vehicles on the market and issuing safety certificates to railway undertakings;

(c) harmonising national rules and optimising procedures;

(d) monitoring action taken by the national safety authorities on interoperability and rail safety.

Amendment 33

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) address recommendations to Member States concerning the application of Articles 21, 22 and 30;

Amendment

(b) address recommendations to Member States concerning the application of Articles 21, 22 and 30 **and to national safety authorities concerning the application of Article 29(4);**

Amendment 34

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Agency shall set up a limited number of working parties for drawing up recommendations, in particular related to technical specifications for interoperability (TSIs), common safety targets (CSTs) **and** common safety methods (CSMs).

Amendment

The Agency shall set up a limited number of working parties for drawing up recommendations, in particular related to technical specifications for interoperability (TSIs), common safety targets (CSTs), common safety methods (CSMs), **common safety indicators (CSIs), registers, entities in charge of maintenance, the documents referred to in Article 15 and provisions on minimum qualifications of railway staff entrusted with safety-critical tasks.**

Amendment 35

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The Agency shall appoint to the working parties professionals from the railway sector from the list referred to in paragraph 3. It shall ensure adequate representation of those sectors of the industry and of those users which could be affected by measures the Commission may propose on the basis of the recommendations addressed to it by the Agency.

Amendment

The Agency shall appoint to the working parties professionals from the railway sector from the list referred to in paragraph 3. It shall ensure adequate representation **of all the Member States**, of those sectors of the industry and of those users which could be affected by measures the Commission may propose on the basis of the recommendations addressed to it by the Agency.

Amendment 36

Proposal for a regulation

Article 4 – paragraph 2 – subparagraph 4

Text proposed by the Commission

The Agency may, if necessary, appoint to the working parties independent experts and representatives of international organisations recognised as competent in the field concerned. Staff of the Agency may not be appointed to the working

Amendment

The Agency may, if necessary, appoint to the working parties independent experts and representatives of international organisations recognised as competent in the field concerned. Staff of the Agency may not be appointed to the working parties, **except for the chair of the working**

parties.

parties, who shall be a representative of the Agency.

Amendment 37

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

3. Each representative body referred to in Article 34 shall forward to the Agency a list of the most qualified experts mandated to represent them in each working party.

Amendment

3. Each **year, each** representative body referred to in Article 34 shall forward to the Agency a list of the most qualified experts mandated to represent them in each working party.

Amendment 38

Proposal for a regulation

Article 4 – paragraph 4

Text proposed by the Commission

4. Whenever the work of such working parties has **a direct** impact on the working conditions, health and safety of workers in the industry, representatives from the workers' organisations shall participate in the relevant working parties as full members.

Amendment

4. Whenever the work of such working parties has **an** impact on the working conditions, health and safety of workers in the industry, representatives from the workers' organisations **from all the Member States** shall participate in the relevant working parties as full members.

Amendment 39

Proposal for a regulation

Article 4 – paragraph 6

Text proposed by the Commission

6. The working parties shall be chaired by a representative of the Agency.

Amendment

deleted

Amendment 40

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

Whenever the work provided for in Articles 11, 12, 15, and 32 has a direct impact on the social environment or working conditions of workers in the industry, the Agency shall consult the social partners within the framework of the sectoral dialogue committee set up pursuant to Decision 98/500/EC¹¹.

¹¹ Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at European level (OJ L 225, 12.8.1998, p. 27).

Amendment

Whenever the work provided for in Articles 11, 12, 15, and 32 has a direct impact on the social environment or working conditions of workers in the industry, the Agency shall consult the social partners ***in all the Member States*** within the framework of the sectoral dialogue committee set up pursuant to Decision 98/500/EC¹¹.

¹¹ Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at European level (OJ L 225, 12.8.1998, p. 27).

Amendment 41

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

These consultations shall be held before the Agency submits its recommendations to the Commission. The Agency shall take due account of these consultations, and shall, at all times, be available to expound on its recommendations. The opinions expressed by the sectoral dialogue committee shall be forwarded by the Agency to the Commission and by the Commission to the committee referred to in Article 75.

Amendment

These consultations shall be held before the Agency submits its recommendations to the Commission. The Agency shall take due account of these consultations, and shall, at all times, be available to expound on its recommendations. The opinions expressed by the sectoral dialogue committee shall be forwarded, ***within two months***, by the Agency to the Commission and by the Commission to the committee referred to in Article 75.

Amendment 42

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Whenever the work provided for in Articles 11 and 15 has a direct impact on rail freight customers and passengers, the Agency shall consult the organisations representing them. The list of organisations to be consulted shall be drawn up by the Commission with the assistance of the committee referred to in Article 75.

Amendment

Whenever the work provided for in Articles 11 and 15 has a direct impact on rail freight customers and passengers, the Agency shall consult the organisations representing them, ***including in particular representatives of passengers with reduced mobility***. The list of organisations to be consulted shall be drawn up by the Commission with the assistance of the committee referred to in Article 75.

Amendment 43

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

These consultations shall be held before the Agency submits its proposals to the Commission. The Agency shall take due account of these consultations, and shall, at all times, be available to expound on its proposals. The opinions expressed by the organisations concerned shall be forwarded by the Agency to the Commission and by the Commission to the committee referred to in Article 75.

Amendment

These consultations shall be held before the Agency submits its proposals to the Commission. The Agency shall take due account of these consultations, and shall, at all times, be available to expound on its proposals. The opinions expressed by the organisations concerned shall be forwarded, ***within two months***, by the Agency to the Commission and by the Commission to the committee referred to in Article 75.

Amendment 44

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. The Agency shall conduct an impact assessment of its recommendations and opinions. The Management Board shall adopt impact assessment methodology based on the methodology of the Commission. The Agency shall liaise with the Commission to ensure that relevant work at the Commission is duly taken into

Amendment

1. The Agency shall conduct an impact assessment of its recommendations and opinions. The Management Board shall adopt impact assessment methodology based on the methodology of the Commission, ***taking into account the requirements laid down in Directive ... [the Railway Safety Directive]***. The Agency shall liaise with the Commission to

account.

ensure that relevant work at the Commission is duly taken into account. ***The assumptions used as the basis for the impact assessment and the data sources used shall be clearly identified in the report accompanying each recommendation.***

Amendment 45

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

4. Member States shall provide the Agency with the data necessary for the impact assessment.

Amendment

4. Member States ***and stakeholders*** shall provide the Agency, ***as required and at its request***, with the data necessary for the impact assessment.

Amendment 46

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. The Agency shall issue opinions at request of ***the*** national regulatory bodies referred to in Article 55 of Directive 2012/34/EU [Directive establishing a Single European Rail Area (recast)] concerning safety-related and interoperability-related aspects of matters drawn to their attention.

Amendment

1. The Agency shall issue opinions at ***the*** request of ***one or more*** national regulatory bodies referred to in Article 55 of Directive 2012/34/EU ***of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area^{11a}*** concerning safety-related and interoperability-related aspects of matters drawn to their attention.

^{11a} OJ L 343, 14.12.2012, p. 32.

Amendment 47

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. The Agency may carry out visits to the Member States in order to perform its tasks, in particular those referred to in Articles 12, 21, 22, 16, 17, 27, 29, 30, 31 and 38, in accordance with the policy defined by the Management Board.

Amendment

1. The Agency may carry out visits to the Member States in order to perform its tasks, in particular those referred to in Articles 12, 21, 22, 16, 17, **18**, 27, **28**, 29, 30, 31, **33** and 38, in accordance with the policy defined by the Management Board.

Amendment 48

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. The Agency shall issue recommendations to the Commission on the Common Safety Methods (CSMs) and the Common Safety Targets (CSTs) provided for in Articles 6 and 7 of Directive ... [the Railway Safety Directive]. The Agency shall also issue recommendations on periodic revision of CSMs and CSTs to the Commission.

Amendment

1. The Agency shall issue recommendations to the Commission on the Common Safety Methods (CSMs), **the Common Safety Indicators (CSIs)** and the Common Safety Targets (CSTs) provided for in Articles 6 and 7 of Directive ... [the Railway Safety Directive]. The Agency shall also issue recommendations on periodic revision of CSMs and CSTs to the Commission.

Amendment 49

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

The Agency shall issue single safety certificates in accordance with Articles 10 and 11 of Directive ... [the Safety Directive].

Amendment

Without prejudice to Article 10 (2a) of Directive... [the Safety Directive] the Agency shall issue, **renew, suspend, amend or revoke** single safety certificates in accordance with Articles 10 and 11 of Directive ... [the Safety Directive].

Amendment 50

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Spontaneous reporting of incidents

The Agency shall establish a system enabling the spontaneous and anonymous reporting of any incident that may jeopardise the system's safety. It shall create a mechanism for informing the responsible actors automatically. The Agency shall also coordinate the communication of reports from national agencies, in particular where they affect safety in more than one State.

Amendment 52

Proposal for a regulation

Article 15 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(gb) issue recommendations to the Commission on European standards to be developed by the relevant European standardisation bodies, particularly concerning spare parts;

Amendment 53

Proposal for a regulation

Article 15 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

(gc) issue detailed requests concerning standards for the relevant European standardisation bodies in order to fulfil the mandate given to them by the Commission;

Amendment 54

Proposal for a regulation

Article 15 – paragraph 1 – point g d (new)

Text proposed by the Commission

Amendment

(gd) issue recommendations to the Commission regarding the training and certification of on-board personnel with safety tasks;

Amendment 55

Proposal for a regulation

Article 15 – paragraph 1 – point g e (new)

Text proposed by the Commission

Amendment

(ge) issue recommendations to the Commission to harmonise national rules in accordance with Article 22(1), particularly in cases where one rule concerns several Member States. This work shall be carried out in cooperation with the national safety authorities;

Amendment 56

Proposal for a regulation

Article 15 – paragraph 1 – point g f (new)

Text proposed by the Commission

Amendment

(gf) at the request of the Commission, issue opinions to it on interoperability constituents not complying with the essential requirements in accordance with Article 11 of Directive ...[the Interoperability Directive];

Amendment 57

Proposal for a regulation

Article 15 – paragraph 1 – point g g (new)

Text proposed by the Commission

Amendment

(gg) issue recommendations to the Commission on minimum inspection intervals (time periods and kilometrage) in respect of rolling stock (goods wagons,

passenger carriages and locomotives).

Amendment 58

Proposal for a regulation

Article 15 – paragraph 2 – introductory part

Text proposed by the Commission

2. For drafting recommendations referred to in paragraph 1, points (a) **and** (b), the Agency shall:

Amendment

2. For drafting recommendations referred to in paragraph 1, points (a), (b) **and** (c), the Agency shall:

Amendment 59

Proposal for a regulation

Article 15 – paragraph 2 – point a

Text proposed by the Commission

(a) ensure that the TSIs and the specifications for registers are adapted to technical progress and market trends and to social requirements;

Amendment

(a) ensure that the TSIs and the specifications for registers are adapted to technical progress and market trends and to social requirements ***with a view to improving the efficiency of the railway system while taking into account its cost-effectiveness;***

Amendment 60

Proposal for a regulation

Article 15 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) participate as an observer in the relevant working groups on standardisation;

Amendment 61

Proposal for a regulation

Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Agency shall involve the working parties where this is provided for in Article 4.

Amendment 62

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

The Agency shall issue authorisations for placing on the market for railway vehicles in accordance with Article 20 of Directive ... [the Interoperability Directive].

Amendment

Without prejudice to Article 20 (9a) of Directive ... [the Interoperability Directive] the Agency shall issue, **renew, suspend, amend or revoke** authorisations for placing on the market for railway vehicles in accordance with Article 20 of **that** Directive

Amendment 63

Proposal for a regulation Article 17 – paragraph 1

Text proposed by the Commission

The Agency shall issue authorisations for placing on the market for types of vehicles in accordance with Article 22 of Directive ... [the Interoperability Directive].

Amendment

The Agency shall issue, **renew, suspend, amend or revoke** authorisations for placing on the market for types of vehicles in accordance with Article 22 of Directive ... [the Interoperability Directive].

Amendment 64

Proposal for a regulation Article 18 – title

Text proposed by the Commission

Authorisations for placing in service of trackside ***control-command and signalling sub-systems***

Amendment

Authorisation for placing in service of trackside ***ERTMS***

Amendment 65

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

The Agency shall issue authorisations for placing in service of the trackside control-command and signalling subsystems located or operated in the entire Union in accordance with Article 18 of Directive ... [the Interoperability Directive].

Amendment

The Agency shall issue, **renew, suspend, amend or revoke** authorisations for placing in service of the trackside **ERTMS** subsystems located or operated in the entire Union in accordance with Article 18 of Directive ... [the Interoperability Directive].

Amendment 66

Proposal for a regulation Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Agency may play a role in promoting open and full access to data including international timetable datasets.

Amendment 67

Proposal for a regulation Article 19 – paragraph 3

Text proposed by the Commission

3. The Agency shall develop and maintain the technical tools for managing the different versions of the telematics applications' specifications.

Amendment

3. The Agency shall develop and maintain the technical tools for managing the different versions of the telematics applications' specifications **and enforce the compatibility, both downwards and upwards, of these different versions.**

Amendment 68

Proposal for a regulation Article 21 – paragraph 2

Text proposed by the Commission

2. Where after *the* examination referred to paragraph 1 the Agency considers that national rules enable the essential requirements for interoperability to be fulfilled, CSMs to be respected and the CSTs to be achieved, and that they would not result in arbitrary discrimination or a disguised restriction on rail transport operation *between Member States*, the Agency shall inform the Commission and the Member State concerned about its positive assessment. The Commission may validate the rule in the IT system referred to in Article 23.

Amendment

2. Where after examination *and within the deadlines* referred to *in* paragraph 1 the Agency considers that national rules enable the essential requirements for interoperability to be fulfilled, CSMs to be respected and the CSTs to be achieved, and that they would not result in arbitrary discrimination or a disguised restriction on rail transport operation, the Agency shall inform the Commission and the Member State concerned about its positive assessment. The Commission may validate the rule in the IT system referred to in Article 23.

Amendment 69

Proposal for a regulation

Article 21 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The provisions of this Article do not apply to national rules on health and safety at work and qualification and training requirements for railway staff with safety-relevant tasks.

Amendment 70

Proposal for a regulation

Article 21 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. In the case of the urgent preventive measures referred to in Article 8 of Directive ... [the Safety Directive] and Article 14(4) of Directive ... [the Interoperability Directive], in particular after an accident or an incident, the Agency shall lead the harmonisation of the rule at Union level, together with the national safety authorities. If necessary,

the Agency shall issue a recommendation or an opinion to the Commission.

Amendment 71

Proposal for a regulation

Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Agency shall examine the national rules in force on the date of application of this Regulation. Accordingly, the Agency shall propose a plan of work to the Management Board, for carrying out the examination, as part of the annual and multiannual work programmes referred to in Article 48. Each year, pursuant to Article 50, the Agency shall submit a progress report to the Management Board on its work and the results achieved.

Amendment 72

Proposal for a regulation

Article 22 – paragraph 2

Text proposed by the Commission

Amendment

2. Where after the examination referred to paragraph 1 the Agency considers that national rules enable the essential requirements for interoperability to be fulfilled, CSMs to be respected and the CSTs to be achieved, and that they would not result in arbitrary discrimination or a disguised restriction on rail transport operation *between Member States*, the Agency shall inform the Commission and the Member State concerned about its positive assessment. The Commission may validate the rule in the IT system referred to in Article 23.

2. Where after examination referred to in paragraph 1 the Agency considers that national rules enable the essential requirements for interoperability to be fulfilled, CSMs to be respected and the CSTs to be achieved, and that they would not result in arbitrary discrimination or a disguised restriction on rail transport operation, the Agency shall inform the Commission and the Member State concerned about its positive assessment. The Commission may validate the rule in the IT system referred to in Article 23.

Amendment 73

Proposal for a regulation

Article 22 – paragraph 3 – point a

Text proposed by the Commission

(a) issue a recommendation addressed to the Member State concerned stating the reasons why **the rule in question should be** modified or repealed;

Amendment

(a) issue a recommendation addressed to the Member State concerned, **that the rule, which has been the subject of the negative assessment be repealed or modified immediately, and** stating the reasons why **that rule has to be** modified or repealed;

Amendment 74

Proposal for a regulation

Article 22 – paragraph 3 – point b

Text proposed by the Commission

(b) inform the Commission about its negative assessment.

Amendment

(b) inform the Commission about its negative assessment **and forward to it the recommendation addressed to the Member State concerned.**

Amendment 75

Proposal for a regulation

Article 22 – paragraph 5

Text proposed by the Commission

5. The procedure described in paragraphs 2 **and** 3 shall apply, mutatis mutandis, in cases where the Agency becomes aware of any national rule, notified or not, being redundant or in conflict with the CSMs, CSTs, TSIs or any other Union legislation in the railway field.

Amendment

5. The procedure described in paragraphs 2, 3 **and 4** shall apply, mutatis mutandis, in cases where the Agency becomes aware of, or is informed about, any national rule, notified or not, being redundant or in conflict with the CSMs, CSTs, TSIs or any other Union legislation in the railway field **or creating an unjustified barrier to the single railway market. In that event, the time limit laid down in paragraph 1 shall**

apply.

Amendment 76

Proposal for a regulation Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. On matters dealing with training, occupational health and safety for rail professionals responsible for safety critical tasks, the Agency may only apply this paragraph if the national rule has a potential discriminatory impact.

Amendment 77

Proposal for a regulation Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Use of the database

The Agency shall carry out the technical examination of the national rules in force referred to in available national legislation as listed in its reference document database as at the date of entry into force of this Regulation.

Amendment 78

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

Amendment

1. The Agency shall set up and manage a dedicated IT system containing national rules referred to in Articles 21(1) and 22(1) and make it accessible to stakeholders and the public.

1. The Agency shall set up and manage a dedicated IT system containing national rules referred to in Articles 21(1) and 22(1) and ***national acceptable means of compliance referred to in Article 2(28a) of Directive ...[Interoperability Directive].***

The Agency shall make it accessible to stakeholders and the public.

Amendment 79

Proposal for a regulation

Article 23 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Within one month of the entry into force of this Regulation, Member States shall notify to the Commission any existing national rule which has not been notified by the date of entry into force of this Regulation.

Amendment 80

Proposal for a regulation

Article 23 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall notify national rules referred to in Articles 21(1) and 22(1) to the Agency and to the Commission through the IT system referred to in paragraph 1. The Agency shall publish the rules in this system and use it for informing the Commission in accordance with Articles 21 and 22.

2. Member States shall notify national rules referred to in Articles 21(1) and 22(1) to the Agency and to the Commission through the IT system referred to in paragraph 1. The Agency shall publish the rules in this system and use it for informing the Commission in accordance with Articles 21 and 22. ***The Agency shall use the IT system to inform the Commission about any negative recommendation forwarded to a Member State pursuant to Article 21(3), and Article 22(3)(b).***

Amendment 81

Proposal for a regulation

Article 23 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Agency shall also make the status of the evaluation of those rules and, when

completed, the results of the evaluation, publicly available via the system referred to in paragraph 1 of this Article.

Amendment 82

Proposal for a regulation Article 24 – paragraph 3

Text proposed by the Commission

3. The Agency shall recommend the adoption of a new version of ERTMS Technical specifications. However, it shall only do so when the previous version has been deployed at a sufficient rate. The development of new versions shall not be detrimental to the rate of deployment of the ERTMS, the stability of the specifications which is needed to optimise the production of ERTMS equipment, the return on investment for railway undertakings and efficient planning of the deployment of the ERTMS.

Amendment

3. The Agency shall recommend the adoption of a new version of ERTMS Technical specifications. However, it shall only do so when the previous version has been deployed at a sufficient rate. The development of new versions shall not be detrimental to the rate of deployment of the ERTMS, the stability of the specifications which is needed to optimise the production of ERTMS equipment, the return on investment for railway undertakings *and keepers* and efficient planning of the deployment of the ERTMS.

Amendment 83

Proposal for a regulation Article 26 – paragraph 1

Text proposed by the Commission

1. The Agency *may* assist the railway undertakings, at their request, in checking the technical and operational compatibility between ERTMS on-board and trackside subsystems before placing a vehicle in service.

Amendment

1. The Agency *shall* assist the railway undertakings, at their request, in checking the technical and operational compatibility between ERTMS on-board and trackside subsystems before placing a vehicle in service.

Amendment 84

Proposal for a regulation

Article 26 – paragraph 2

Text proposed by the Commission

2. Where the Agency finds that there is a risk of a lack of technical and operational compatibility between networks and vehicles fitted with ERTMS equipment ***in the context of specific ERTMS projects***, it may request the appropriate actors, in particular manufacturers, notified conformity assessment bodies, railway undertakings, infrastructure managers and national safety authorities, to provide any information relevant to the procedures applied for 'EC' verification and placing in service, and to operational conditions. The Agency shall inform the Commission about such a risk and, if necessary, recommend appropriate measures to the Commission.

Amendment

2. Where the Agency finds that there is a risk of a lack of technical and operational compatibility between networks and vehicles fitted with ERTMS equipment, it may request the appropriate actors, in particular manufacturers, notified conformity assessment bodies, railway undertakings, ***keepers***, infrastructure managers and national safety authorities, to provide any information relevant to the procedures applied for 'EC' verification and placing in service, and to operational conditions. The Agency shall ***immediately*** inform the Commission about such a risk and, if necessary, recommend appropriate measures to the Commission.

Amendment 85

Proposal for a regulation

Article 26 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Agency shall set up a test track and laboratory for centralised testing of ERTMS track-side and on-board equipment.

Amendment 86

Proposal for a regulation

Article 28 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the Agency has doubts as to the performance of an accredited laboratory, it shall notify the competent accreditation body, the Member State concerned and the national safety authorities accordingly. The Agency shall be invited to participate as an observer in the peer

review. Where doubts are raised, the Agency shall immediately inform the Member State concerned and the national safety authorities accordingly.

Amendment 87

Proposal for a regulation Article 29 – paragraph 4

Text proposed by the Commission

4. If the Agency considers that the deficiencies referred to in paragraph 3 prevent the national safety authority concerned from effectively performing its tasks in relation to railway safety and interoperability, the Agency shall recommend to the national safety authority to take appropriate steps within a time limit ***to be defined*** taking into account the importance of the deficiency.

Amendment

4. If the Agency considers that the deficiencies referred to in paragraph 3 prevent the national safety authority concerned from effectively performing its tasks in relation to railway safety and interoperability, the Agency shall recommend to the national safety authority to take appropriate steps within a time limit ***which it shall define*** taking into account the importance of the deficiency.

Amendment 88

Proposal for a regulation Article 29 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. In the cases referred to in Article 10(2a) of Directive ... [the Safety Directive] and Article 20(9a) of Directive ... [Interoperability Directive] if national safety authorities take conflicting decisions and no mutually acceptable decision is reached, the applicant concerned by those decisions or a national safety authority that is involved may refer the decisions to the Agency who shall take a decision.

Amendment 89

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

2. The Agency shall support harmonised accreditation of notified conformity assessment bodies, in particular by giving appropriate guidance on evaluation criteria and procedures to assess whether notified bodies meet the requirements referred to in **Art. 27** of Directive ... [Interoperability Directive] to the accreditation bodies, via the European Accreditation infrastructure recognised by **Art. 14** of Regulation (EC) No. 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93.

Amendment

2. The Agency shall support harmonised accreditation of notified conformity assessment bodies, in particular by giving appropriate guidance on evaluation criteria and procedures to assess whether notified bodies meet the requirements referred to in **Chapter 6** of Directive ... [Interoperability Directive] to the accreditation bodies, via the European Accreditation infrastructure recognised by **Article 14** of Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

Amendment 90

Proposal for a regulation
Article 30 – paragraph 4

Text proposed by the Commission

4. The Agency shall issue audit reports covering the activities referred to in paragraph 3 and send them to the notified conformity assessment body concerned and to the Commission. Each audit report shall include, in particular, any deficiencies identified by the Agency and recommendations for improvement. If the Agency considers that these deficiencies prevent the notified body concerned from effectively performing its tasks in relation to railway safety and interoperability, the Agency shall adopt a recommendation requesting the Member State in which that notified body is established to take appropriate steps within a time limit.

Amendment

4. The Agency shall issue audit reports covering the activities referred to in paragraph 3 and send them to the notified conformity assessment body concerned and to the Commission. Each audit report shall include, in particular, any deficiencies identified by the Agency and recommendations for improvement. If the Agency considers that these deficiencies prevent the notified body concerned from effectively performing its tasks in relation to railway safety and interoperability, the Agency shall adopt a recommendation requesting the Member State in which that notified body is established to take appropriate steps within a time limit **set by the Agency**.

Amendment 91

Proposal for a regulation

Article 31 – paragraph 2

Text proposed by the Commission

2. The Agency shall monitor the overall safety performance of the railway system. The Agency may in particular seek the assistance of the networks referred to in Article 34, including collection of data. The Agency shall also draw on the data collected by Eurostat and shall cooperate with Eurostat to prevent any duplication of work and to ensure methodological consistency between the common safety indicators and the indicators used in other modes of transport.

Amendment

2. The Agency shall monitor the overall safety performance of the railway system **and the safety regulatory framework**. The Agency may in particular seek the assistance of the networks referred to in Article 34, including collection of data. The Agency shall also draw on the data collected by Eurostat and shall cooperate with Eurostat to prevent any duplication of work and to ensure methodological consistency between the common safety indicators and the indicators used in other modes of transport.

Amendment 92

Proposal for a regulation

Article 31 – paragraph 3

Text proposed by the Commission

3. **At the Commission's request**, the Agency shall **issue recommendations on how to improve the interoperability of the railway systems, in particular by facilitating coordination between railway undertakings and infrastructure managers, or between infrastructure managers**.

Amendment

3. The Agency shall **develop a common occurrence reporting and monitoring system**.

Amendment 93

Proposal for a regulation

Article 31 – paragraph 4

Text proposed by the Commission

4. The Agency shall monitor progress on the interoperability and safety of the railway systems. Every two years it shall present to the Commission and publish a report on progress on interoperability and

Amendment

4. The Agency shall monitor **and assess** progress on the interoperability and safety of the railway **systems and the related costs and benefits**. Every two years it shall present to the Commission and publish a

safety in the Single European Railway Area.

report on progress on interoperability and safety in the Single European Railway Area.

Amendment 94

Proposal for a regulation Article 32 – paragraph 2

Text proposed by the Commission

2. The Agency may be requested by the Commission to perform other tasks relating to railway staff in accordance with Directive 2007/59/EC.

Amendment

2. The Agency may be requested by the Commission to perform other tasks relating to railway staff in accordance with Directive 2007/59/EC ***and relating to railway staff entrusted with safety-critical tasks not covered by Directive 2007/59/EC.***

Amendment 95

Proposal for a regulation Article 33 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Agency shall ***set up and keep*** European registers provided for in Article 43, 44 and 45 of Directive ... [Interoperability Directive]. The Agency shall act as the system authority for all registers and databases referred to in the Safety, Interoperability and Train Drivers Directives. This shall include, in particular:

Amendment

1. The Agency shall ***define*** European registers provided for in Article 43, 44 and 45 of Directive ... [Interoperability Directive] ***in a practical, efficient and user-friendly format to fully support business and operational needs.*** The Agency shall act as the system authority for all registers and databases referred to in the Safety, Interoperability and Train Drivers Directives. This shall include, in particular:

Amendment 96

Proposal for a regulation Article 33 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) setting-up and maintaining the registers referred to in points(g), (i) and (ma).

Amendment 97

Proposal for a regulation

Article 33 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) creating an European Vehicle Register.

Amendment 98

Proposal for a regulation

Article 33 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The European Vehicle Register:

(a) shall be kept by the Agency;

(b) shall be public;

(c) shall have the national vehicle registers incorporated in it no later than two years after the entry into force of this Regulation. The Commission shall establish, by means of implementing acts, the format type document. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75;

(d) shall include at least the following details for each type of vehicle:

(i) the technical characteristics of the type of vehicle, as defined in the relevant TSI;

(ii) the manufacturer's name;

(iii) the dates and references of the successive authorisations for that type of vehicle, including any restrictions or

withdrawals, and the Member States granting the authorisations;

(iv) design features intended for persons with reduced mobility and persons with disabilities.

When the Agency issues, renews, amends, suspends or revokes an authorisation to place vehicle types in service, it shall update the register without delay.

Amendment 99

Proposal for a regulation

Article 33 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Agency shall make the following documents and registers provided for by Directive ... [Interoperability Directive] and Directive ... [Railway Safety Directive] publicly available:

Amendment

2. The Agency shall make the following documents and registers provided for by Directive ... [Interoperability Directive] and Directive ... [Railway Safety Directive] publicly available ***through an implemented, user-friendly and easily accessible IT solution:***

Amendment 100

Proposal for a regulation

Article 33 – paragraph 2 – point f

Text proposed by the Commission

(f) the national rules notified to the Commission in accordance with Article 8 of Directive ... [Railway Safety Directive] and **Articles** 14 of Directive ... [Interoperability Directive];

Amendment

(f) the national rules notified to the Commission in accordance with Article 8 of Directive ... [Railway Safety Directive] and **Article** 14 of Directive ... [Interoperability Directive] ***and the Agency's assessment of them;***

Amendment 101

Proposal for a regulation

Article 33 – paragraph 2 – point g

Text proposed by the Commission

(g) the vehicle *registers, including via links to relevant national registers;*

Amendment

(g) the *European* vehicle *register;*

Amendment 102

Proposal for a regulation

Article 33 – paragraph 2 – point m a (new)

Text proposed by the Commission

Amendment

(ma) the register of certified entities in charge of maintenance, in accordance with Article 14 of Directive... [Safety Directive].

Amendment 103

Proposal for a regulation

Article 33 – paragraph 5

Text proposed by the Commission

Amendment

5. The national authorities responsible for issuing the licences and certificates referred to in points (c) and (d) of paragraph 2 shall notify the Agency within *one month* of each individual decision to issue, renew, amend or revoke those licenses and certificates.

5. The national authorities responsible for issuing the licences and certificates referred to in points (c) and (d) of paragraph 2 shall notify the Agency within *ten days* of each individual decision to issue, renew, amend or revoke those licenses and certificates.

Amendment 104

Proposal for a regulation

Article 34 – title

Text proposed by the Commission

Amendment

Networks of national safety authorities, *investigating bodies* and representative bodies

Networks of national safety authorities and representative bodies

Amendment 105

Proposal for a regulation

Article 34 – paragraph 1 – introductory part

Text proposed by the Commission

The Agency shall establish a network of the national safety authorities **and a network of the investigating bodies** referred to in Article 21 of Directive.../... [Railway Safety Directive]. The Agency shall provide them with a secretariat. The tasks of the networks shall, in particular, be:

Amendment

The Agency shall establish a network of the national safety authorities referred to in Article 17(4) of Directive.../... [Railway Safety Directive]. The Agency shall provide them with a secretariat. The tasks of the networks shall, in particular, be:

Amendment 106

Proposal for a regulation

Article 34 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) provision of information to the Agency, if necessary, on deficiencies of the secondary legislation that derives from Directive ... [Railway Safety Directive] and Directive ... [Interoperability Directive].

Amendment 107

Proposal for a regulation

Article 34 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Agency shall establish a network of representative bodies from the railway sector acting at the Union level. The list of these bodies shall be defined in an implementing act adopted by the Commission, in accordance with advisory procedure referred to in Article 75. The Agency shall provide the network with a

Amendment

2. The Agency shall establish a network of representative bodies from the railway sector, ***including representatives of passengers, passengers with reduced mobility and employees***, acting at the Union level. The list of these bodies shall be defined in an implementing act adopted by the Commission, in accordance with

secretariat. The tasks of the network shall, in particular, be:

advisory procedure referred to in Article 75. The Agency shall provide the network with a secretariat. The tasks of the network shall, in particular, be:

Amendment 108

Proposal for a regulation Article 38 – paragraph 1

Text proposed by the Commission

Without prejudice to the derogations provided for by Article 9 of Directive [...] [Railway Interoperability Directive], the Agency shall, at the Commission's request, examine, from the point of view of interoperability and safety, any project involving the design, construction, renewal or upgrading of the subsystem for which an application for Union financial support has been submitted.

Amendment

Without prejudice to the derogations provided for by Article 9 of Directive [...] [Railway Interoperability Directive], the Agency shall, at the Commission's request, examine, from the point of view of interoperability and safety, any project involving the design, construction, renewal or upgrading of the subsystem for which an application for Union financial support has been submitted. ***In the case of projects funded under the Trans European Network – Transport (TEN-T) programme, the Agency should closely cooperate with the TEN-T Executive Agency.***

Amendment 109

Proposal for a regulation Article 40 – paragraph 3

Text proposed by the Commission

3. The Management Board shall adopt a strategy for relations with third countries or international organisations concerning matters for which the Agency is competent. This strategy shall be included in the annual and multi-annual work programme of the Agency, with a specification of associated resources.

Amendment

3. The Management Board shall adopt a strategy for relations with third countries or international organisations concerning matters for which the Agency is competent. This strategy shall be included in the annual and multi-annual work programme of the Agency, with a specification of associated resources. ***The strategy shall seek to ensure that the activities of the Agency facilitate reciprocal access for Union railway undertakings to the rail markets of third countries.***

Amendment 110

Proposal for a regulation Article 41 – paragraph 1

Text proposed by the Commission

The Agency shall contribute to identifying potential railway spare parts to be standardised. To this end, the Agency *may* establish a working party in order to coordinate the stakeholders' activities and *may* establish contacts with the European standardisation bodies. The Agency shall present the Commission with appropriate recommendations.

Amendment

The Agency shall contribute to identifying potential railway spare parts to be standardised. To this end, the Agency *shall* establish a working party in order to coordinate the stakeholders' activities and *shall* establish contacts with the European standardisation bodies. The Agency shall present the Commission with appropriate recommendations *no later than two years after the entry into force of this Regulation.*

To stimulate the market for rolling stock and reduce the costs for railways undertakings there is a necessity to develop type-approvals for spare parts.

Amendment 111

Proposal for a regulation Article 43 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The Management Board shall be composed of one representative from each Member State and *four* representatives of the Commission, all with a right to vote.

Amendment

1. The Management Board shall be composed of one representative from each Member State and *two* representatives of the Commission, all with a right to vote.

Amendment 112

Proposal for a regulation Article 43 – paragraph 4

Text proposed by the Commission

4. The term of office of the members shall be *four* years and may be renewed.

Amendment

4. The term of office of the members shall be *five* years and may be renewed *once*.

Amendment 113

Proposal for a regulation

Article 44 – paragraph 2

Text proposed by the Commission

2. The term of office of the Chairperson and Deputy Chairperson shall be **four** years and may be renewed. If, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date also.

Amendment

2. The term of office of the Chairperson and Deputy Chairperson shall be **five** years and may be renewed **once**. If, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date also.

Amendment 114

Proposal for a regulation

Article 44 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Chairperson of the Management Board shall decide whether or not to accede to a request to exclude a member of the Board of Appeal, in accordance with Article 53(3a), and, if necessary, in accordance with Article 53(3b), shall appoint a temporary member to the Board of Appeal.

Amendment 115

Proposal for a regulation

Article 45 – paragraph 1

Text proposed by the Commission

1. Meetings of the Management Board shall be convened by its Chairperson. The Executive Director of the Agency shall participate in the meetings.

Amendment

1. Meetings of the Management Board shall be convened by its Chairperson. The Executive Director of the Agency shall participate in the meetings ***except where the Management Board is to take a decision relating to Article 64.***

Amendment 116

Proposal for a regulation

Article 47 – paragraph 1 – point l

Text proposed by the Commission

(l) adopt an anti-fraud strategy, which is proportionate to the fraud risks having regard to cost-benefit of the measures to be implemented;

Amendment

(l) adopt an anti-fraud **and transparency** strategy, which is proportionate to the fraud risks having regard to cost-benefit of the measures to be implemented;

Amendment 117

Proposal for a regulation

Article 47 – paragraph 1 – point n

Text proposed by the Commission

(n) adopt rules for the prevention and management of conflicts of interest in respect of members of the Management Board and of the Board of Appeal.

Amendment

(n) adopt rules for the prevention and management of conflicts of interest **in the Agency as established in Article 68a and** in respect of members of the Management Board and of the Board of Appeal.

Amendment 118

Proposal for a regulation

Article 47 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Management Board shall adopt, in accordance with the procedure provided for in Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director is authorised to sub-delegate these powers.

Amendment

The Management Board shall adopt, in accordance with the procedure provided for in Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director is authorised to sub-delegate these powers.

Such sub-delegation of powers shall not affect his or her liability. The Executive Director shall inform the Management Board of such delegations and sub-delegations.

Amendment 119

Proposal for a regulation

Article 47 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In application of the previous subparagraph, where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Amendment

In application of the previous subparagraph, where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director. *The delegate shall inform the Management Board of such a delegation.*

Amendment 120

Proposal for a regulation

Article 47 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Management Board shall waive the immunity of the Agency or of present or past members of its staff, in accordance with Article 64.

Amendment 121

Proposal for a regulation

Article 48 – paragraph 2

Text proposed by the Commission

Amendment

2. The work programme shall be adopted

2. The work programme shall be adopted

without prejudice to the Union's annual budgetary procedure. If, within 15 days of the date of adoption of the work programme, the Commission expresses its disagreement with the programme, the Management Board shall re-examine the programme and adopt it, as amended if necessary, within a period of two months, in second reading *either* by a two-thirds majority of its members entitled to vote, including *by* all Commission representatives, *or by unanimity of the representatives of the Member States*.

without prejudice to the Union's annual budgetary procedure. If, within 15 days of the date of adoption of the work programme, the Commission expresses its disagreement with the programme, the Management Board shall re-examine the programme and adopt it, as amended if necessary, within a period of two months, in second reading by a two-thirds majority of its members entitled to vote, including all Commission representatives.

Amendment 122

Proposal for a regulation Article 51 – paragraph 1

Text proposed by the Commission

1. The Agency shall establish one or more Boards of Appeal.

Amendment

1. The Agency shall establish one or more *independent* Boards of Appeal.

Amendment 123

Proposal for a regulation Article 51 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The qualifications required for each member of the Board of Appeal, the power of each member at the preparatory decision-making stage and the voting conditions shall be determined by the Commission with the assistance of the committee referred to in Article 48(3) of Directive ... [Interoperability Directive].

Amendment 124

Proposal for a regulation

Article 52 – paragraph 1

Text proposed by the Commission

1. The term of office of the members and alternates of a Board of Appeal shall be *four* years and may be renewed.

Amendment

1. The term of office of the members and alternates of a Board of Appeal shall be *five* years and may be renewed *once*.

Amendment 125

Proposal for a regulation

Article 52 – paragraph 2

Text proposed by the Commission

2. The members of a Board of Appeal shall be independent *and* may not perform any other duties within the Agency. In making their decisions they shall not be bound by any instructions.

Amendment

2. The members of a Board of Appeal shall be independent *of all parties involved in an appeal. They* may not perform any other duties within the Agency *or the Commission*. In making their decisions *or delivering their opinions* they shall not be bound by any instructions.

Amendment 126

Proposal for a regulation

Article 53 – paragraph 1

Text proposed by the Commission

1. The members of the Board of Appeal *may* not take part in any appeal proceedings if they have any personal interest in the proceedings, if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the decision under appeal.

Amendment

1. The members of the Board of Appeal *shall* not take part in any appeal proceedings if they have any personal interest in the proceedings, if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the decision under appeal, *including, in the case of appeals lodged pursuant to Article 54(1), in delivering an opinion pursuant to Article 54(4) in respect of the same authorisation or the same certificate*.

Amendment 127

Proposal for a regulation Article 53 – paragraph 2

Text proposed by the Commission

2. Members of the Board of Appeal who consider that they should not take part in any appeal proceeding, for one of the reasons referred to in paragraph 1 or for any other reason, shall inform the Board of Appeal *which decides on the exclusion accordingly*.

Amendment

2. Members of the Board of Appeal who consider that they should not take part in any appeal proceeding, for one of the reasons referred to in paragraph 1 or for any other reason, shall inform the Board of Appeal *of their decision not to take part*.

Amendment 128

Proposal for a regulation Article 53 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. A party may apply in writing to the chair of the Management Board for a member of the Board of Appeal to be excluded. The exclusion application shall be made on one of the grounds referred to in paragraph 1 or on the grounds of a risk of bias. The application shall be accompanied by relevant supporting documents. The request shall only be admissible if it is made before the start of proceedings before the Board of Appeal, or, where the information constituting the grounds for the exclusion request becomes known after the proceedings have started, within five days of the requesting party becoming aware of that information.

The Board of Appeal member concerned shall be notified of the request. Within five days of being notified of the exclusion request, the Board of Appeal member concerned shall state whether he or she agrees to be excluded. If he or she does

not agree, the chair of the Management Board shall take a decision within seven working days of the response by the member concerned, or, where there is no response, after expiry of the deadline set for issuing a response.

Amendment 129

Proposal for a regulation Article 53 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The Board of Appeal shall deliver its opinion or take its decision without the participation of the member who has decided not to take part or who has been excluded in accordance with paragraphs 2 and 3. In order for the decision to be taken or the opinion delivered, the member concerned shall be replaced on the Board of Appeal by his or her substitute.

If the substitute is unable to take his or her seat on the board for whatever reason, the chair of the Management Board shall appoint a temporary member to the board from the list referred to in Article 51(3) to replace him or her in the case concerned.

Amendment 130

Proposal for a regulation Article 54 – paragraph 1

Text proposed by the Commission

Amendment

1. An appeal may be brought before the Board of Appeal against decisions taken by the Agency pursuant to Articles 12, 16, 17 and 18.

1. An appeal may be brought before the Board of Appeal against decisions taken by the Agency pursuant to Articles 12, 16, 17 and 18 *or against recommendations issued pursuant to Articles 21 and 22 or against a failure by the Agency to respond within*

the prescribed time limits.

Amendment 131

Proposal for a regulation Article 54 – paragraph 2

Text proposed by the Commission

2. An appeal lodged pursuant to paragraph 1 shall not have a suspensory effect. The Agency may, however, suspend the application of the decision appealed against, if it considers that circumstances so permit.

Amendment

2. An appeal lodged pursuant to paragraph 1 shall not have a suspensory effect. The Agency may, however, suspend the application of the decision appealed against, if it considers that circumstances so permit, ***as long as the suspension of the decision does not affect railway safety.***

Amendment 132

Proposal for a regulation Article 55

Text proposed by the Commission

Persons entitled to Appeal, time ***limit*** and form

1. 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.

2. The appeal, together with the statement of grounds thereof, shall be filed in writing at the Agency within two months of the notification of the measure to the person concerned, or, if the person is not notified of the measure, within two months of the day on which it came to their knowledge.

Amendment

Persons entitled to Appeal, time ***limits*** and form

1. 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 ***or against a failure to take a decision within the prescribed time limits. Such rights of appeal shall also apply to bodies representing the persons referred to in Article 34(2), as duly authorised in accordance with their statutes.***

2. The appeal, together with the statement of grounds thereof, shall be filed in writing at the Agency within two months of the notification of the measure to the person concerned, or, if the person is not notified of the measure, within two months of the day on which it came to their knowledge.

2a. Appeals against the absence of a decision shall be filed in writing at the

Agency within two months of the expiry of the time limit defined in the relevant Article.

Amendment 133

Proposal for a regulation Article 56 – paragraph 1

Text proposed by the Commission

1. *When examining the appeal*, The Board of Appeal shall *act expeditiously*. It shall, as often as necessary, invite the parties to the appeal proceedings to file, within specified time limits, observations on its notifications or on communications from other parties to the appeal proceedings. Parties to the appeal proceedings shall be entitled to make oral presentations.

Amendment

1. The Board of Appeal shall *decide within three months of the appeal being filed whether to grant or refuse that appeal. It shall request any additional information it may require within one month of the appeal being filed. That relevant information shall be supplied within a reasonable time period set by the Board of Appeal that shall not exceed one month.* It shall, as often as necessary, invite the parties to the appeal proceedings to file, within specified time limits *that shall not exceed one month*, observations on its notifications or on communications from other parties to the appeal proceedings. Parties to the appeal proceedings shall be entitled to make oral presentations.

Amendment 134

Proposal for a regulation Article 58 – paragraph 2 – introductory part

Text proposed by the Commission

2. The revenue of the Agency shall consist of:

Amendment

2. The revenue of the Agency shall consist, *in particular*, of:

Amendment 135

Proposal for a regulation

Article 58 – paragraph 2 – point c

Text proposed by the Commission

(c) the fees paid by applicants for, and holders of, certificates and authorisations issued by the Agency in accordance with Articles 12, 16, 17 and 18;

Amendment

(c) the fees paid by applicants for, and holders of, certificates and authorisations issued by the Agency in accordance with Articles 12, 16, 17 and 18. ***The delegated act referred to in Article 73 shall set charges at different levels according to the areas of use of certificates and authorisations and type and extent of railway operations;***

Amendment 136

Proposal for a regulation

Article 58 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any task or obligation in addition to the tasks stemming from Union legislation and not entailing compensation as laid down in Article 58(2)(b), (c), (d) and (e) shall be subject to an assessment and to compensation from the budget of the Union.

Amendment 137

Proposal for a regulation

Article 59 – paragraph 4

Text proposed by the Commission

Amendment

4. On ***receipt of*** the Court of Auditors' observations on the Agency's provisional accounts, under Article 148 of the general Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his own responsibility and submit them to the Management Board for ***an opinion***.

4. ***Based, where necessary,*** on the Court of Auditors' observations on the Agency's provisional accounts, under Article 148 of the general Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his own responsibility and submit them, ***together with a statement of assurance,*** to the Management Board for ***approval***.

Amendment 138

Proposal for a regulation Article 61 – paragraph 3

Text proposed by the Commission

3. The Agency shall take appropriate administrative measures to organise its services in order to avoid **any conflict** of interest.

Amendment

3. The Agency shall take appropriate administrative measures, ***inter alia through training and prevention strategies***, to organise its services in order to avoid ***conflicts*** of interest, ***including relating to post-employment issues such as: 'revolving doors' and 'insider information'***..

Amendment 139

Proposal for a regulation Article 61 – paragraphs 3 a and 3 b (new)

Text proposed by the Commission

Amendment

3a. The Agency and its staff shall carry out the tasks defined in this Regulation with the highest degree of professional integrity and the requisite technical competence in the specific field. They shall be free from all pressures and inducements, in particular financial inducements, that might influence their judgement or the results of their work, especially from persons or groups with an interest in the results of this work. The Agency shall have sufficient staff to ensure that the tasks defined in this Regulation are carried out properly.

3b. Staff shall have:

(a) a thorough technical and professional grounding covering all the Agency's activities;

(b) a satisfactory knowledge of the requirements of the assessments that the Agency carries out and adequate authority to carry out those assessments;

(c) appropriate knowledge and understanding of the requirements necessary to formulate the Agency's decisions;

(d) the ability to review opinions delivered and decisions taken by the national safety authorities as well as national regulations.

Amendment 140

Proposal for a regulation Article 63 – paragraph 1

Text proposed by the Commission

The Agency *may* also make use of Seconded National Experts or other staff not employed by the Agency under the Staff Regulations and the Conditions of Employment of Other Servants.

Amendment

The Agency *shall* also make use of Seconded National Experts *and, in particular, staff from national safety authorities*, or other staff not employed by the Agency under the Staff Regulations and the Conditions of Employment of Other Servants. *The Agency shall adopt and implement a policy to evaluate and manage potential conflicts of interest of seconded national experts including prohibiting them from attending working group meetings when their independence and impartiality could be undermined.*

Amendment 141

Proposal for a regulation Article 64 – paragraph 1

Text proposed by the Commission

The Protocol on the Privileges and Immunities of the European Union shall apply to the agency and its staff.

Amendment

The Protocol on the Privileges and Immunities of the European Union shall apply to the agency and its staff *without prejudice to judicial and/or extra-judicial proceedings relating to the Agency's remit.*

Amendment 142

Proposal for a regulation Article 66 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. The Agency shall take full responsibility, including accepting contractual and non-contractual liability, for the authorisations and certifications that it issues.

Amendment 143

Proposal for a regulation Article 67 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Without prejudice to any agreement between the Agency and the applicant with regards to translation requirements, the documents provided by applicants and holders of certificates and authorisations, in accordance with Articles 12, 16, 17 and 18, to notify the Agency and national safety authorities of those certificates and authorisations, shall be translated into all the official Union languages of the countries in which the rolling stock is used and in which the railway company concerned operates. Each translation shall be the authentic text in the country concerned, including for procedures under Article 56. The authorisation and the certificate shall be issued in all the Union languages of the countries concerned.

Amendment 144

Proposal for a regulation Article 67 – paragraph 1

Text proposed by the Commission

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community¹⁸ shall apply to the Agency.

¹⁸OJ 17, 6.10.1958, p. 385

Amendment

1. ***Where Article 67(-1) does not apply***, the provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community¹⁸ shall apply to the Agency.

¹⁸OJ 17, 6.10.1958, p. 385

Amendment 145

Proposal for a regulation Article 68 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 40, the Agency shall be open to participation by third countries, ***in particular by countries within the scope of the European Neighbourhood Policy, the Enlargement policy countries and EFTA countries*** which have concluded agreements with the Union under which the countries concerned have adopted and are applying Union ***legislation***, or its equivalent national measures, in the field covered by this Regulation.

Amendment

1. Without prejudice to Article 40, the Agency shall be open to participation by third countries which have concluded agreements with the Union under which the countries concerned have adopted and are applying Union ***law***, or its equivalent national measures, in the field covered by this Regulation. ***This paragraph shall apply, in particular, to countries within the scope of the European Neighbourhood Policy, Union enlargement policy countries and EFTA countries.***

Amendment 146

Proposal for a regulation Article 68 a (new)

Text proposed by the Commission

Amendment

Article 68 a

Conflict of interest

1. The Executive Director, as well as officials seconded by Member States and the Commission on a temporary basis shall make a declaration of commitments

and a declaration of interests indicating the absence of any direct or indirect interests, which might be considered prejudicial to their independence. These declarations shall be made in writing on their entry into service and shall be renewed in the event of a change in their personal circumstances. Members of the Administration board, the executive board and the board of appeal shall also make these declarations public together with their curricula vitae. The agency shall publish on its website a list of the members of the bodies described in Article 42 as well as external and in-house experts.

2. The Administrative Board shall implement a policy to manage and avoid conflicts of interest, which shall at least include:

a) principles for managing and verification of the declarations of interest including rules for making them public taking into consideration Article 77;

b) compulsory training requirements on conflict of interest for the staff of the Agency and seconded national experts;

c) rules on gifts and invitations;

d) detailed rules for incompatibilities for staff and members of the Agency once they have ended their employment relation with the Agency;

e) rules of transparency on Agency's decisions including the minutes of the Boards of the Agency which shall be made public taking into consideration sensitive, classified and commercial information; and

f) sanctions and mechanisms to safeguard the autonomy and independency of the Agency.

The Agency shall bear in mind the need to maintain balance between the risks and the benefits, in particular as regards the objective of obtaining the best technical advice and expertise, and the management of conflicts of interest. The

Executive Director shall include the information related to implementation of that policy when reporting to the European Parliament and the Council in accordance with this Regulation.

Amendment 147

Proposal for a regulation Article 69 – title

Text proposed by the Commission

Cooperation with national authorities *and bodies*

Amendment

Cooperation with national authorities

Amendment 148

Proposal for a regulation Article 69 – paragraph 1

Text proposed by the Commission

1. The Agency may enter into agreements with relevant national authorities, in particular the National Safety Authorities, and other competent bodies, in relation to the implementation of Articles 12, 16, 17 and 18.

Amendment

1. The Agency may enter into agreements with relevant national authorities, in particular the National Safety Authorities, and other competent bodies, in relation to the implementation of Articles 12, 16, 17 and 18. *Such agreements may involve one or more national safety authorities.*

Amendment 149

Proposal for a regulation Article 69 – paragraph 2

Text proposed by the Commission

2. The agreements may include *contracting of some of the* tasks of the Agency to the national authorities, such as checking and preparing files, verifying

Amendment

2. The agreements may include *delegating* tasks *and responsibilities* of the Agency to the national authorities, such as checking and preparing files, verifying technical

technical compatibility, performing visits and drafting technical studies.

compatibility, performing visits and drafting technical studies.

Amendment 150

Proposal for a regulation

Article 69 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Conversely, a national safety authority may subcontract to the Agency tasks other than those conferred on it in accordance with Article 20 of Directive ... [Interoperability Directive] and Article 16(2) of Directive ... [Railway Safety Directive].

Amendment 151

Proposal for a regulation

Article 69 – paragraph 4

Text proposed by the Commission

Amendment

4. The agreements described in paragraphs 1, 2 and 3 **are** without prejudice to the overall responsibility of the Agency for performing its tasks as provided for in Articles 12, 16, 17 and 18.

4. The agreements described in paragraphs 1, 2 and 3 **shall clearly specify the levels of responsibility of the Agency and the national safety authorities in respect of tasks carried out by each contractual party as stipulated in the agreements. This shall be** without prejudice to the overall responsibility of the Agency for performing its tasks as provided for in Articles 12, 16, 17 and 18.

Amendment 152

Proposal for a regulation

Article 72 – title

Text proposed by the Commission

Amendment

Combating fraud

Combating fraud ***and monitoring performance***

Amendment 153

Proposal for a regulation Article 72 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The European Court of Auditors shall monitor the performance and decision-making of the Agency through audit and inspections.

Amendment 154

Proposal for a regulation Article 73 – Title

Text proposed by the Commission

Amendment

Delegated acts relating to Articles 12, 16,
17 ***and*** 18

Delegated acts relating to Articles 12, 16,
17, 18 ***and 41***

Amendment 155

Proposal for a regulation Article 73 – paragraph 4

Text proposed by the Commission

Amendment

4. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof is sufficient to cover the full cost of the services delivered. All expenditures of the Agency attributed to staff involved in activities referred to in paragraph 3, including the employer's pro-rata contribution to the pension scheme, shall be in particular reflected in this cost. Should a significant imbalance resulting from the provision of the services covered by fees and charges become recurrent, the revision of the level of the fees and charges

4. The amount of the fees and charges ***relating to the Agency*** shall be fixed at such a level as to ensure that the revenue in respect thereof is sufficient to cover the full cost of the services delivered. All expenditures of the Agency attributed to staff involved in activities referred to in paragraph 3, including the employer's pro-rata contribution to the pension scheme, shall be in particular reflected in this cost. Should a significant imbalance resulting from the provision of the services covered by fees and charges become recurrent, the

shall become mandatory.

revision of the level of the fees and charges shall become mandatory.

Amendment 156

Proposal for a regulation Article 73 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall also be empowered to adopt delegated acts in accordance with Article 74 concerning standardisation of railway spare parts in application of Article 41.

Amendment 157

Proposal for a regulation Article 74 – paragraph 2

Text proposed by the Commission

Amendment

2. The ***delegation of*** power referred to in Article 73 shall be conferred on the Commission for ***an indeterminate*** period of ***time*** from the date of entry into force of this Regulation.

2. The power ***to adopt delegated acts*** referred to in Article 73 shall be conferred on the Commission for ***a*** period of ***five years*** from the date of entry into force of this Regulation. ***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. Provided the report has been received, 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 158

Proposal for a regulation Article 76 – paragraph 1

Text proposed by the Commission

1. No later than five years after the entry into force of this Regulation and every five years thereafter, the Commission shall commission an evaluation to assess, in particular, the impact, effectiveness and efficiency of the Agency and its working practices. The evaluation shall address, in particular, any need to amend the mandate of the Agency, and the financial implications of any such amendment.

Amendment

1. No later than five years after the entry into force of this Regulation and every five years thereafter, the Commission shall commission an evaluation to assess, in particular, the impact, effectiveness and efficiency of the Agency and its working practices. ***The evaluation shall take account of the views of the representatives of the railway sector, of the social partners and of consumer organisations.*** The evaluation shall address, in particular, any need to amend the mandate of the Agency, and the financial implications of any such amendment.

Amendment 159

**Proposal for a regulation
Article 77 – paragraph 3 a (new)**

Text proposed by the Commission

Amendment

3a. The Agency shall undertake the certification and authorisation tasks pursuant to Articles 12, 16, 17 and 18 within one year following the entry into force of this Regulation. Until then, Member States shall continue to apply their national legislation.

Amendment 160

**Proposal for a regulation
Article 77 – paragraph 3 b (new)**

Text proposed by the Commission

Amendment

3b. For an additional period of three years after the one-year period laid down in Article 77(3a), applicants may apply either to the Agency or the national safety authority. During this period, national

safety authorities may continue to issue certificates and authorisations by way of derogation from Articles 12, 16, 17 and 18, in accordance with Directives 2008/57 and 2004/49.

Amendment 161

Proposal for a regulation Article 77 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. In the cases referred to in Article 10(2a) of Directive ... [the Safety Directive] and Article 20 (9a) of Directive... [Interoperability Directive] the national safety authorities may continue to issue certificates and authorisations after the period referred in paragraph 3b of this Article, under the conditions stipulated in those Articles.