



**COUNCIL OF
THE EUROPEAN UNION**

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TRANS 544**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the approval, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007

COUNCIL DECISION No .../2013/EU

of ...

**on the approval, on behalf of the European Union,
of the Protocol to the Convention on International Interests
in Mobile Equipment on Matters Specific to Railway Rolling Stock,
adopted in Luxembourg on 23 February 2007**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2), in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ OJ C , , p. .

Whereas:

- (1) The Union is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions.
- (2) The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (hereinafter referred to as the "Rail Protocol"), adopted in Luxembourg on 23 February 2007, makes a useful contribution to the regulation at international level in its area. It is therefore desirable that the provisions of that instrument which concern matters falling within the exclusive competence of the Union be applied as soon as possible.
- (3) The Commission negotiated the Rail Protocol on behalf of the European Community, for the parts falling within the exclusive competence of the Community.

- (4) Article XXII(1) of the Rail Protocol provides that Regional Economic Integration Organisations which have competence over certain matters governed by that Protocol may sign, accept, approve or accede to it.
- (5) Some of the matters governed by Council Regulation (EC) No 44/2001¹, to be replaced as of 10 January 2015 by Regulation (EU) No 1215/2012 of the European Parliament and of the Council², Council Regulation (EC) No 1346/2000³, Regulation (EC) No 593/2008 of the European Parliament and of the Council⁴, Directive 2008/57/EC of the European Parliament and of the Council⁵ and Regulation (EC) No 881/2004 of the European Parliament and of the Council⁶, are also dealt with in the Rail Protocol.

¹ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 12, 16.1.2001, p. 1).

² Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast) (OJ L 351, 20.12.2012, p. 1).

³ Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L 160, 30.6.2000, p. 1).

⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

⁵ Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast) (OJ L 191, 18.07.2008, p. 1).

⁶ Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (Agency Regulation) (OJ L 220, 21.6.2004, p. 3).

- (6) The Community signed the Rail Protocol on 10 December 2009 following the adoption, on 30 November 2009, of Council Decision 2009/940/EC¹.
- (7) The Union has exclusive competence over some of the matters governed by the Rail Protocol, while the Member States have competence over other matters governed by that instrument.
- (8) The Union should therefore approve the Rail Protocol.
- (9) Article XXII(2) of the Rail Protocol provides that, at the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation shall make a declaration specifying the matters governed by that Protocol, in respect of which competence has been transferred to that organisation by its Member States.

¹ Council Decision 2009/940/EC of 30 November 2009 on the signing by the European Community of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007 (OJ L 331, 16.12.2009, p. 1).

- (10) The Community made the required declaration regarding its competence at the time of the signature of the Rail Protocol. The Union should, however, renew that declaration at the time of approval of the Rail Protocol in order to correct a factual mistake and to take into account legislative developments and the accession of the Republic of Croatia to the Union.
- (11) Articles VI, VIII, IX and X of the Rail Protocol apply only where a Contracting State has made a declaration pursuant to Article XXVII of the Rail Protocol and under the conditions specified by that declaration. At the time of approval of the Rail Protocol, the Union should not make a declaration pursuant to Article XXVII(2) concerning the application of Article VIII, nor should it make any of the declarations pursuant to Article XXVII(1) and (3). The competence of the Member States concerning the rules of substantive law as regards insolvency will not be affected.

- (12) The United Kingdom and Ireland are taking part in the adoption and application of this Decision.
- (13) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007, is hereby approved on behalf of the European Union.¹

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article XXI of the Rail Protocol.²

Article 3

At the time of approval of the Rail Protocol, the Union shall make the declaration set out in the Annex, in accordance with Article XXII(2) of that Protocol.

¹ The text of the Rail Protocol has been published in OJ L 331, 16.12.2009, p. 5, together with the Decision on signature.

² The date of entry into force for the Union of the Rail Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at,

For the Council

The President

**Declaration to be made pursuant to Article XXII(2)
concerning the competence of the European Union
over matters governed by the Protocol to the Convention
on International Interests in Mobile Equipment
on Matters Specific to Railway Rolling Stock (the "Rail Protocol"),
adopted in Luxembourg on 23 February 2007,
in respect of which the Member States
have transferred their competence to the Union**

1. Article XXII of the Rail Protocol provides that Regional Economic Integration Organisations which are constituted by sovereign States and which have competence over certain matters governed by that Protocol may sign, accept, approve or accede to it on condition that they make the declaration referred to in Article XXII(2). The Union has decided to approve the Rail Protocol and is accordingly making that declaration.

2. The Member States of the European Union are the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand-Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

3. However, this declaration does not apply to the Kingdom of Denmark, in accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.
4. This declaration is not applicable to the territories of the Member States to which the Treaty on the Functioning of the European Union does not apply (see Article 355 of that Treaty) and is without prejudice to such acts or positions as may be adopted under the Rail Protocol by the Member States concerned on behalf of and in the interests of those territories.

5. The Member States of the European Union have transferred competence to the Union as regards matters which may affect or alter the rules of Council Regulation (EC) No 44/2001¹, to be replaced as of 10 January 2015 by Regulation (EU) No 1215/2012 of the European Parliament and of the Council², Council Regulation (EC) No 1346/2000³, Regulation (EC) No 593/2008 of the European Parliament and of the Council⁴, Directive 2008/57/EC of the European Parliament and of the Council⁵ and Regulation (EC) No 881/2004 of the European Parliament and of the Council⁶.

¹ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 12, 16.1.2001, p. 1).

² Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast) (OJ L 351, 20.12.2012, p. 1).

³ Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L 160, 30.6.2000, p. 1).

⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

⁵ Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast) (OJ L 191, 18.07.2008, p. 1).

⁶ Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (Agency Regulation) (OJ L 220, 21.6.2004, p. 3).

6. As far as the numbering system of vehicles is concerned, the Union has adopted, by way of Commission Decision 2006/920/EC¹, amended on 14 November 2012 by Commission Decision 2012/757/EU², a numbering system which is appropriate for the purpose of identification of railway rolling stock as referred to in Article XIV of the Rail Protocol.

Furthermore, as far as data exchange between Member States of the European Union and the International Registry is concerned, the Union has made considerable progress by way of Commission Decision 2007/756/EC³, amended on 14 November 2012 by Decision 2012/757/EU. Under that Decision, the Member States of the European Union have implemented National Vehicle Registers, and duplication of data with the International Registry should be avoided.

7. The Union does not make a declaration pursuant to Article XXVII(2) concerning the application of Article VIII, nor does it make any of the declarations pursuant to Article XXVII(1) and (3). The Member States keep their competence concerning the rules of substantive law as regards insolvency.

¹ Commission Decision 2006/920/EC of 11 August 2006 concerning the technical specification of interoperability relating to the subsystem Traffic Operation and Management of the trans-European conventional rail system (OJ L 359, 18.12.2006, p. 1).

² Commission Decision 2012/757/EU of 14 November 2012 concerning the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system in the European Union and amending Decision 2007/756/EC (OJ L 345, 15.12.2012, p. 1).

³ Commission Decision 2007/756/EC of 9 November 2007 adopting a common specification of the national vehicle register provided for under Articles 14(4) and (5) of Directives 96/48/EC and 2001/16/EC (OJ L 305, 15.11.2007, p. 30).

8. The exercise of the competence which the Member States have transferred to the Union pursuant to the Treaty on European Union and to the Treaty on the Functioning of the European Union is, by its nature, liable to continuous development. In the framework of those Treaties, the competent institutions may take decisions which determine the extent of the competence of the Union. The latter therefore reserves the right to amend this declaration accordingly, without this constituting a prerequisite for the exercise of its competence with regard to matters governed by the Rail Protocol.
