



Council of the  
European Union

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Draft Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (recast) (First reading)  
- Adoption  
a) of the Council's position  
b) of the statement of the Council's reasons  
= Statements

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**Statement by the Commission on non-opinion clause**

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5, paragraph 4, second subparagraph, point (b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5, paragraph 4, recourse to second subparagraph, point (b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.