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Subject: COMMISSION STAFF WORKING DOCUMENT EVALUATION of the
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

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COMMISSION STAFF WORKING DOCUMENT

EVALUATION
of the

**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**

{SWD(2020) 138 final}

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ABBREVIATIONS

ATO	Automatic Train Operation
CEFR	Common European Reference Framework
CER	Community of European Railways
ERA	European Union Agency for Railways
ERTMS	European Rail Traffic Management System
ETF	European Transport Workers' Federation
IM	Infrastructure Manager
NLR	National Licence Register
NSA	National Safety Authority
RINF	Register of Infrastructure
RMMS	Report on Monitoring Development of the Rail Market
RU	Rail Undertaking
TSI	Technical Specifications for Interoperability

1. INTRODUCTION

The creation of a European Railway Area through the integration of national rail systems is an EU long-term target, aiming to make rail more competitive and thereby transport more sustainable. Making sure that national borders no longer constitute obstacles for EU wide operations is at the heart of it. This includes ensuring that cross-border operations are not hampered by diverging national staff requirements and standards requiring changing train drivers and crew every time a train crosses a border. The European train driver certification scheme set out by Directive 2007/59/EC is an important step in facilitating cross-border operations.

In many Member States, the Railway Undertakings (RU) are among the largest national employers. At the end of 2016, just over 1 million people were employed in the European railway sector¹. Between 2011 and 2016, reported employment rose by 8% in total². Based on the data³ collected by the European Union Agency for Railways (ERA), at the end of 2016 there were more than 180.000 train drivers in the EU; out of these, about two thirds were certified based on Directive 2007/59/EC on the certification of train drivers (the Directive) and one third not yet certified based on the Directive.

Since adoption of the Directive, the ageing of the workforce in the rail sector intensifies. The structure tends towards older workers, with workers older than 40 years typically representing more than 50%. Despite the apparent improvement in the age pyramid over the years, the high percentage of railway staff older than 50 in 2016 suggests that a large contingent of workers is expected to leave the railways soon.

The ageing of staff increases the need for developing lifelong learning programmes and increasing recruitment efforts. It is also important to avoid a loss of knowledge and competencies when generations change, in particular for key occupations with skill shortages such as train drivers.

At the same time, since the adoption of the Directive, digitalisation of railways has gained momentum, offering important opportunities to increase reliability, improve performance and efficiency of the rail system, and fundamentally change the way companies provide service to customers and organise their operations.

The European Rail Traffic Management System (ERTMS)⁴, has the potential to reduce costs dramatically by eliminating trackside signalling, as well as boosting capacity and safety. The current state of deployment of ERTMS raises the issue of combining “new” and “traditional” technologies during the transition; train drivers have to master both. A

¹ Based on the 6th Report on Monitoring Development of the Rail Market (RMMS) adopted in February 2019. The 7th RMMS report is currently under preparation.

² However, as mentioned in the 6th RMMS report, this change appears to be dominated by increases in the number of reported staff at both infrastructure manager and incumbent railway undertaking in France.

³ Data from 18 Member States, Switzerland and Norway

⁴ ERTMS aims at replacing the different national train control and command systems in Europe. Its deployment will enable the creation of a seamless European railway system and increase European railway's competitiveness. ERTMS has two basic components: ETCS, the European Train Control System, is an automatic train protection system (ATP) to replace the existing national ATP-systems; and GSM-R, a radio system for providing voice and data communication between the track and the train, based on standard GSM using frequencies specifically reserved for rail application with certain specific and advanced functions.

study conducted in the Netherlands⁵ indicated that driving in ERTMS may lead to a low activation of the driver and could decrease its situational awareness. At the same time, with ERTMS the driver receives key information on both static and dynamic characteristics of the tracks several kilometers ahead, e.g. speed restrictions subsequent to an occupied track, which allows the driver to anticipate. This is of particular importance for freight trains in order to improve energy consumption and limit the efforts on the coupling. ERTMS therefore provides all the necessary data for the driver, and in longer term, it is expected to influence the content of training regarding the infrastructure.

In the future, the Automatic Train Operation (ATO)⁶ is expected to dramatically change the interaction between the infrastructure and the traffic management system, thanks to ever more intelligent onboard systems. The first levels of ATO assist train drivers to have better performance in terms of speed profiles, provide easier interfaces with the infrastructure and dispatch, and further increase the safety of the rail operations.

Demand for new and advanced skills will be manifold in all future scenarios. Fully tapping the potential of automation and digitalization will undoubtedly lead to gains in customer service, costs and safety.. Moreover, given that the ageing of workers in the rail sector is a significant concern, the opportunities offered by the technological innovation could help identifying ways to attract young people to the sector. The present evaluation of the Directive is an important contribution to making sure that the skillset remains adequate in changing circumstances.

2. PURPOSE AND SCOPE

Purpose of the evaluation

The aim of this evaluation is to provide a complete overview of the implementation of the Directive as well as the effectiveness of the measures it introduced.

The results of this evaluation may be used as an input for possible future policy development, including for impact assessments.

Scope of the evaluation

The evaluation assesses to what extent the Directive has contributed to reaching its objective of setting an effective framework for EU-wide acceptance and comparability of procedures and requirements for licences and certificates and a resulting positive impact on the interoperability and mobility of train drivers.

The evaluation is based on the standard evaluation criteria of relevance, effectiveness, efficiency, EU-added value and coherence.

⁵ R. van der Weide, D. de Bruin, M. Zeilstra: ERTMS pilot in the Netherlands – impact on the train driver

https://www.intergo.nl/public/Publicaties/13/bestand/2017_ERTMS%20pilot%20in%20the%20Netherlands%20%E2%80%93%20impact%20on%20the%20train%20driver.pdf

⁶ Automatic train operation (ATO) is an operational safety enhancement device used to help automate the operation of trains. The degree of automation is indicated by the Grade of Automation (GoA), up to GoA level 4 (where the train is automatically controlled without any staff on board).

This evaluation covers all elements and provisions of the Directive as amended by Commission Directive (EU) 2014/82⁷, and assesses its implementation and effects from 4 December 2007, when it entered into force. It takes into consideration the gradual phasing-in and transition periods as indicated in the Article 37 of the Directive.

This evaluation covers all Member States except Cyprus and Malta (which do not possess a railway network on their territory and hence, do not apply the Directive).

3. BACKGROUND TO THE INTERVENTION

Description of the intervention and its objectives

In the past, in the absence of a certification scheme with EU-wide acceptability and comparability, train drivers licences and certificates obtained in a Member State were not recognized in another Member State. Hence, the train drivers had to undergo training and certification in each and every Member State they worked in. This situation led to considerable duplication with all the significant effort, costs and time involved.

The Directive aimed at addressing the aforementioned patchwork of national solutions regarding the certification of train drivers by providing EU-wide acceptance and comparability of procedures. Its main objective is to facilitate the mobility of train drivers in the context of the increasing opening of the railway market while at least maintaining the current safety levels. The specific objectives were to define and implement common minimum requirements for certification of train drivers, their EU-wide interoperability and to streamline training.

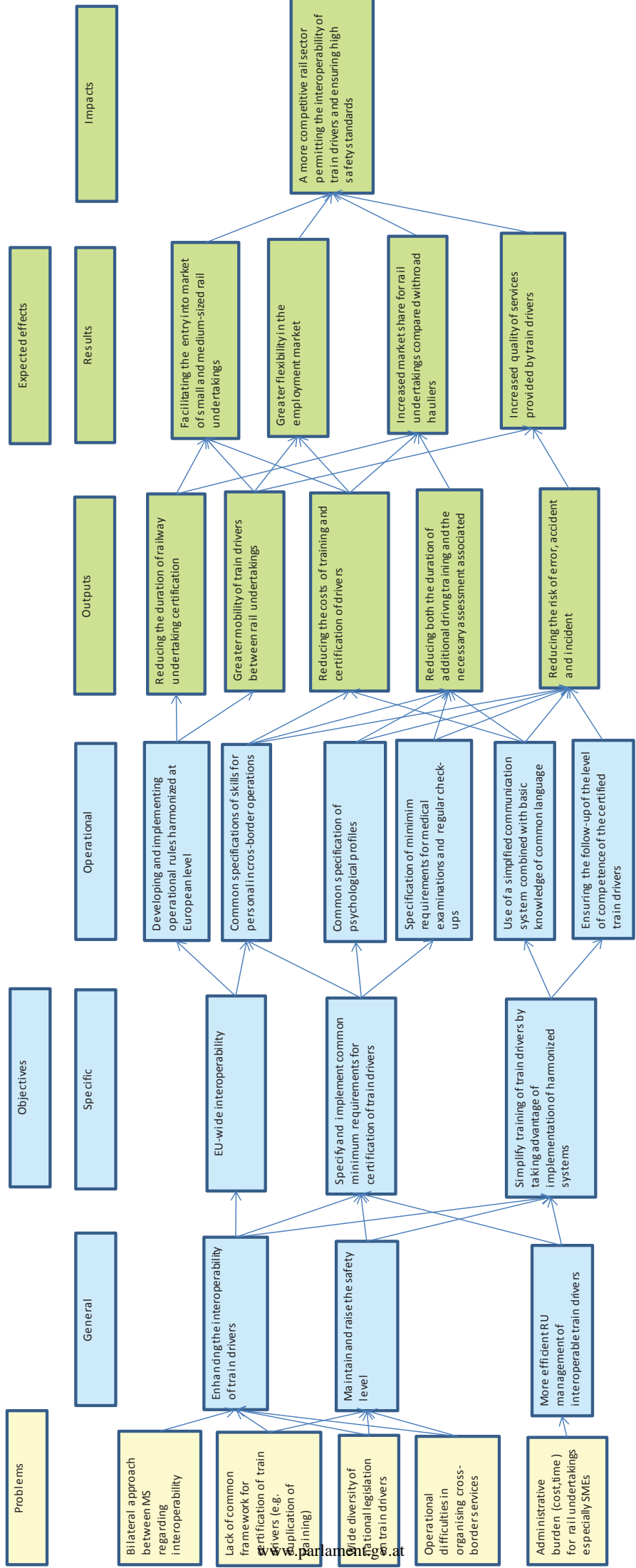
The Directive is built in large parts on the “Autonomous Agreement on the European licence for drivers carrying out a cross-border interoperability service”⁸ of 27 January 2004 concluded by the sectoral social partners Community of European Railways (CER) and the European Transport Workers’ Federation (ETF). Through this agreement, the parties decided to set up a European licence for drivers system, which was aimed at:

- Facilitating the interoperability of driving staff as a means to increase international railway traffic;
- Maintaining and even increasing the level of safety, and, towards this end, guaranteeing the quality level of the driving staff’s performance by ensuring and verifying compliance with competence level geared to the relevant European railway systems;
- Contributing to the efficiency of management of drivers in interoperability services by the railway companies;
- Reducing the risks of social dumping.

The intervention logic of the Directive is summarised in the diagram below.

⁷ OJ L 184, 25.6.2014, p. 11-15

⁸ <https://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=1099>



An important contextual element of the pre-Directive period was the Second Railway Package⁹ and its four interlinked legislative proposals under which staff certification was still based on documents to be provided by the RUs. This included the proof of evidence of staff meeting the requirements of the Technical Specifications for Interoperability (TSI) or the national rules and that the staff has been duly certified. It has rapidly become clear that common rules should be adopted on certification of train drivers to facilitate their interoperability and improve their management and mobility.

Another important contextual element was the agreement reached between the CER and ETF on general social conditions for the European Railway Area. This agreement, implemented by Directive 2005/47/EC¹⁰, reaffirmed the general objectives of the introduction of a European train driver's licence:

- enhancing the interoperability of train crews so as to stimulate international railway transport;
- maintaining and even raising the safety level and thus guarantee the quality of services provided by train drivers while ensuring and verifying the level of skills adapted to the European networks used;
- contributing to the efficiency of methods for managing interoperable train drivers for railway undertakings;
- reducing the risk of downward pressure on social conditions.

Against this background, the Directive entered into force on 4 December 2007. It lays down conditions and procedures for the certification of train drivers operating rolling stock on the railway market of the EU.

More specifically, the train drivers shall have the necessary fitness and qualifications to drive trains and hold a licence demonstrating that they satisfy minimum conditions (medical requirements, basic education and general professional skills), as well as one or more certificates indicating the infrastructure and the rolling stock the holder is authorised to drive. The licence is issued by the competent authority that is the National Safety Authority (set up according to the Safety Directive¹¹), while the certificates are issued by Rail Undertakings (RUs) and Infrastructure managers (IMs). Moreover, the procedures for maintain the validity of licences and certificates are also laid down.

The Directive also specifies the tasks of competent authorities in the Member States (related for example to issuance, renewal and withdrawal of the licence, monitoring of train drivers, carrying out inspections, and monitoring of the certification process), train drivers and other stakeholders such as RUs and IMs (setting up the procedures for issuing, updating and suspension of the certificate, ensuring that the train drivers they contract are in possession of valid certification documents).

⁹ OJ L 164, 30.4.2004, p. 114–163

¹⁰ OJ L 195, 27.7.2005, p. 15-17

¹¹ OJ L 138, 26.5.2016, p. 102-149

The Directive provides for a gradual phasing in of the certification scheme:

- By 29 October 2011, the certificates or licences of drivers performing cross-border services, cabotage services or freight services in another EU country or working in at least two EU countries had to be issued in accordance with the Directive.
- At the latest on 29 October 2013, all new licences and certificates had to be issued in accordance with the Directive.

Four related acts concern the models for licences and certificates, the registers of licences and certificates and training:

- The annexes to Commission Regulation (EU) 36/2010¹² set out the models for the train driving licences, complementary certificates and their certified copies, and application forms for the train driving licences.
- Commission Decision 2010/17/EC¹³ provides for the basic parameters for registers of train driving licences and complementary certificates.
- Commission Decision 2011/765/EU¹⁴ defines the criteria for the recognition of training centres, of examiners of train drivers, and for the organisation of examinations.
- Commission Recommendation 2011/766/EU¹⁵ sets out recommended practices and procedures for the recognition of training centres providing professional training, and of examiners of train drivers and of train drivers candidates.

Since 2007, the Directive has been amended by the following acts:

- Commission Directive 2014/82/EU of 24 June 2014¹⁶ as regards general professional knowledge and medical and language requirements. A main element of this revision was the replacement of Level 3 for language requirements with level B1 Common European Framework of Reference for Languages (CEFR).
- Commission Directive (EU) 2016/882 of 1 June 2016¹⁷ as regards language requirements. The aim of this revision was to give the possibility of exempting, from the B1 level requirements, train drivers on border crossing sections, who drive only up to the first station after crossing the border with the neighbouring Member State.
- Commission Regulation (EU) 2019/554 of 5 April 2019¹⁸ as regards language requirements, which creates the legal basis for testing alternative options to the current language requirements in pilot projects.

In accordance with Article 31(2) of the Directive, when the adaptation of the Annexes concern health and safety conditions, or professional competence, the social partners have to be consulted prior to their preparation.

¹² OJ L 13, 19.1.2010, p. 1–27

¹³ OJ L 8, 13.1.2010, p. 17–31

¹⁴ OJ L 314, 29.11.2011, p. 36–40

¹⁵ OJ L 314, 29.11.2011, p. 41–46

¹⁶ OJ L 184, 25.6.2014, p. 11–15

¹⁷ OJ L 146, 3.6.2016, p. 22–24

¹⁸ OJ L 97, 8.4.2019, p. 1–5

Baseline and points of comparison

The establishment of a single market for railway transport services required a framework for the opening up of the market and regulating it at EU level. The gradual extension of the access rights of licensed RUs led to an increase in the number of companies operating in more than one Member State and to higher demand for drivers trained and certified in more than one Member State.

In 2002, the Commission contracted a study on training and requirements for railway staff (including train drivers) in cross-border operations¹⁹. Its conclusions highlighted the wide diversity of national legislation on train drivers certification and the administrative burden resulting from this, as well as operational difficulties in organising cross-border services:

- There were significant differences from country to country with regard to the educational level required for external recruitment for all staff categories. Internal recruitment was preferred by some of the former national railways in order to make best use of redundant staff.
- All countries had medical requirements for staff selection and a system of medical check-ups; the requirements for the different staff categories and the frequency of medical check-ups were slightly different between countries.
- There were also significant differences in the approach to training; for example, the balance between classroom training and on-the-job training was different from country to country, with more on-the-job training in Italy, France, Belgium, Sweden, Norway and Switzerland.

Similar differences in recruitment levels and composition of training were also observed for other staff categories.

Moreover, based on cross-border case studies, it was assumed that a number of two- or three-system locomotives²⁰ were likely to be introduced for cross-border freight operations in Europe, with the aim of saving time at border stations; this could lead to a demand for more cross-border operations for train drivers. However, requirements on working hours, language skills and training needs for specific knowledge in “foreign” operational rules were expected to limit this development.

The main conclusions from the study contracted in 2002 highlighted the need for common formal requirements for a driver licence for cross-border operations, while national licensing systems would manage the knowledge and skill requirements for national routes, operating procedures and rolling stock. Moreover, it was suggested to replace the mutual recognition of requirements between “railway networks” by either minimum requirements at European level or mutual recognition of requirements between Member States.

¹⁹ ATKINS: Training and staff requirements for railway staff in cross-border operations; Final Report, 28 November 2002.

²⁰ These locomotives would provide a single journey over two or three electrification systems without interruption from changing locomotives.

4. IMPLEMENTATION / STATE OF PLAY

Description of the current situation

Transposition

Article 36 of the Directive required the Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 4 December 2009 and to communicate them to the Commission. By the deadline, 22 Member States had not communicated the transposition to the Commission; hence, the Commission launched 22 non-communication infringements still in 2009, which were all closed subsequently. In case of Croatia, the deadline for transposition was 1 July 2013 and it was met.

Following the conformity assessment, the Commission examined for five Member States whether the transposition was correct and complete. Subsequently infringement procedures were launched against Austria, Czech Republic, and Hungary. Two infringement procedures have been closed (Hungary in 2018 and Czech Republic in 2019); while in case of Austria, the procedure (2015/2151)²¹ is still on-going and it mainly refers to the designation of the competent authority.

Two complaints were received regarding the implementation of the Directive: one regarding the fees charged for issuing the train driver licence, which have been perceived as a disproportionate financial burden, in contradiction with the provisions of the Directive, and a second one regarding a possible lack of implementation of the Directive in Portugal. In case of the first complaint, no infringement of the Directive was identified and hence the file was closed. In the second case, further information was necessary and the Portuguese authorities were requested to provide clarification. Their answer is pending.

Implementation

A first assessment of the implementation of the Directive was done by the European Union Agency for Railways (ERA) in the report²² submitted to the Commission in December 2013 (as requested by Article 33 of the Directive). This report is based on the outcome of a survey conducted in spring 2013 with stakeholders' participation and on the experience gathered by ERA during 5 years of accompanying the implementation process in the Member States; hence it does not present the views of the Commission but of stakeholders and ERA.

The report²³ shows the benefits of the system but it also reveals a series of provisions, which are unclear or incomplete as well as inconsistencies in the text, which impact on the implementation. Along the same lines, the majority of the stakeholders participating in the public consultation²⁴ that took place from 3 March to 10 June 2016 signalled that

²¹

https://ec.europa.eu/commission/presscorner/api/files/document/print/EN/ip_19_4262/IP_19_4262_EN.pdf

²²https://www.era.europa.eu/sites/default/files/activities/docs/141118_art_33_report_development_certification_train_drivers_en.pdf

²³

https://www.era.europa.eu/sites/default/files/activities/docs/141118_art_33_report_development_certification_train_drivers_en.pdf

²⁴

https://ec.europa.eu/transport/content/evaluation-directive-200759ec-certification-train-drivers-operating-locomotives-and-trains_en

some provisions of the Directive are more difficult to implement, for example by leaving considerable room for interpretation.

More specifically, the following categories of issues have been identified:

- Use of terms: The title of Article 16 is “Periodic checks”, then in the text it is about “periodic examinations and/or tests”, while Annex IV speaks about “medical examinations”. While both concepts are actually similar, it may have created confusions for some of the stakeholders.
- Provisions regarding the licence
 - Some stakeholders regret that there is no provision in the Directive explicitly stating that the train driver shall have only one valid licence, even though the idea of a licence that is valid EU-wide and the provisions regarding supervision of the train driver or suspension of the licence implies this.
 - Some stakeholders pointed out that the absence of specific provisions for assessing the psychological fitness of the candidate train driver (Annex II point 2.2) could lead to requirements being applied differently from one Member State to another. The stakeholders consider that it would be justified to have more specific provisions, given the relevance of the psychological fitness for the safe exercise of the duties. The same applies to the minimum frequency for the psychological checks, where some stakeholders consider that it would be justified to specify that frequency.
 - Provisions regarding the certificates Some stakeholder regret that the list with exemptions from possessing a certificate for the respective infrastructure (Article 4.2) does not cover cases such as driving work trains or non-exceptional services of historical trains. They consider this would be justified.

Moreover, in the opinion of stakeholders, the list is not well aligned the operational practice and includes provisions such as the requirement of a second driver sitting next to the driver without certificate during driving. However, for certain types of traction unit, it is not possible to “sit next to the driver”, and therefore, the exemption cannot be used. Further, the purpose of informing the infrastructure manager whenever an additional driver is used is not clear and may have created some confusion.

- Categories of drivers (Article 4.3): While the definition of category B driver is clear as it embraces drivers carrying passengers and/or goods, the definition of category A appears to be less clear x
- Some stakeholders regret the absence of provisions on the geographic scope of validity of a accreditation and recognition issued to persons or bodies (Article 20). This leads to in practice to differences between Member States; some of them recognise the accreditation/recognition issued in another Member State while in some other Member States there is no full recognition and the accredited persons or bodies have to submit another application. The stakeholders consider that it would be justified for the accreditation/recognition to have an EU-wide validity; this would provide for more legal certainty and reduce the administrative burden on both the applicants and the competent authorities.
- Other provisions:
 - When a driver ceases to work for a RU or an IM, he shall inform the competent authority without delay (Article 17). Given that the licence remains valid in case

of cessation of employment, provided that the conditions defined in Article 16.1 continue to be fulfilled, and the National Licence Register (NLR) does not include such information, the use of such information is unclear for the competent authorities. Some competent authorities developed their own system of information and registration of the employment status of train drivers, despite the lack of clarity on the purpose.

Annex I point 4 of the Directive refers to minimum data contained in national registers, which relates to the licence as well as to the certificate. However, Article 22 of the Directive distinguishes between data on the licence to be registered by the competent authorities and data on the certificate to be recorded by each RU and IM in the registers for certificates (Art.22.2). This inconsistency leads to confusion among stakeholders on the scope of the NLR, more specifically whether it should include only data on the licences or also data on certificates.

- Outdated provisions and references

The basic requirements for the licence include the successful completion of nine years of primary and secondary education, and basic training equivalent to level 3 referred to in Council Decision 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications between the Member States of the European Community²⁵. However, this Decision has been repealed in October 2008 by Decision No 1065/2008/EC of 22 October 2008²⁶ and it was superseded by the adoption of the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning, which was revised in 2017²⁷. However, the aforementioned basic requirement continues to be based on the repealed Decision, which creates confusion for the competent authorities, who have to assess the applications for the licence.

These aspects lead to difficulties in the implementation and to different application in Member States. Consequently, the effectiveness of the certification scheme could be limited and the specific objectives to define and implement common minimum requirements for certification of train drivers, facilitate their EU-wide interoperability and to streamline training not met in full.

5. METHOD

The evaluation of the Directive was based on a series of questions focused on relevance, effectiveness, efficiency, coherence and EU-added value both in a general way as well as regarding specific provisions of the Directive.

Relevance

- 1) To what extent are the operational objectives of the Directive relevant and proportionate to address the need of overcoming the differences in certification

²⁵ OJ L 199, 31.7.1985, p. 56–59

²⁶ OJ L 288, 30.10.2008, p. 4

²⁷ Council Recommendation on the European Qualifications Framework for lifelong learning, OJ C 189 of 15.6.2017, p.15-28..

conditions for train drivers across Member States (single market objective) while maintaining the high level of safety of the EU railway system (safety objective)?

- 2) To what extent are the requirements set out in the Directive relevant instruments to achieve the objectives?

Effectiveness

- 3) To what extent has the Directive contributed to EU-wide interoperability of train drivers?
- 4) To what extent has the Directive contributed to enhancing and facilitating the mobility of train drivers?
- 5) To what extent has the Directive contributed to maintain or raise the safety level?
- 6) Has the Directive led to any positive and/or negative unintended effects (both in terms of impacts and results)? If so, what is the extent of these effects and which stakeholder groups are affected the most?
- 7) To what extent the form of intervention was the most adequate one?

Efficiency

- 8) To what extent are the costs incurred by stakeholders (such Member States authorities, Infrastructure managers, Railway Undertakings, train drivers) proportionate to the benefits achieved?

Coherence

- 9) Are the objectives of the Directive coherent with the general EU objectives, notably of the 2011 White Paper on Transport and current EU policy priorities/objectives?
- 10) Are the provisions of the Directive (still) consistent with the co-existing EU railway legislation despite its evolution? Can inconsistencies of references and definitions, and overlaps of provisions be identified? Is there scope to streamline the existing regulatory framework?

EU added value

- 11) What is the EU-added value of the common certification scheme for train drivers?

Short description of methodology

The main source for qualitative data is the outcome of the stakeholders consultation carried out for the evaluation, which included the aforementioned public online consultation and the stakeholders meeting. The public online consultation was open to all interested parties and received 72 replies. There were 40 participants to the stakeholders meeting, which was open to all interested parties.

The public consultation was longer than the mandatory 12 weeks in order to give as many stakeholders as possible the possibility to contribute.

The stakeholder meeting took place in Brussels on 1 July 2016 with the aim of presenting the preliminary results of the consultation and gathering additional input from stakeholders.

In addition, two meetings with the Social Partners took place on 22 April and 5 September 2016.

In the framework of these two exercises, stakeholders were asked to:

- assess the strengths and weaknesses of the Directive,
- express their opinions about different measures in the Directive and their usefulness,
- describe their experiences with its implementation and problems encountered,
- assess whether a revision of the Directive would be desirable, and,
- identify possible enhancements that should be considered in any future revision of the policy in general.

The information gathered in the public consultation complements the findings from the report submitted in December 2013 by ERA. This report is based on the consultation and experience of a variety of stakeholders, more specifically on the outcome of a questionnaire survey conducted in spring 2013 and the experience ERA gathered during five years of accompanying the implementation process in the Member States.

In addition to the public consultation and the ERA report, other sources of information were position papers of various stakeholders, the impact assessment accompanying the proposal²⁸ for the Directive and the final report (including the annexes) of the aforementioned study contracted in 2002.

The data collected was used to respond to the evaluation questions. All the analytical findings constitute the basis for the assessment on how the Directive has performed on the five defined evaluation criteria of relevance, effectiveness, efficiency, coherence and EU added value. This in turn allowed establishing the causality and the attribution of effects to the intervention.

When developing the methodology for answering the evaluation questions, it became necessary to cover additional issues that were not initially foreseen, but proved necessary to evaluate the five evaluation criteria. Therefore, a series of additional issues were included in the questionnaire for the public consultation and hence addressed in the evaluation:

- on the possible re-consideration of using smart cards²⁹;
- on the usefulness of a certification system for other crew members performing safety-critical tasks³⁰; and

²⁸ COM(2004) 142 final

²⁹ Article 34 of the Directive foresees the examination of the possibility of using smartcards combining the licence and certificates. However, following the cost-benefit analysis hereof prepared by ERA (https://www.era.europa.eu/sites/default/files/activities/docs/229_20121214_report_on_smartcards_en.pdf), no further action was taken with regard to the use of smart cards.

³⁰ Article 28 of the Directive foresees the possibility of bringing forward a legislative proposal on a certification system for other crew members performing safety-critical tasks. However, this option was discarded following the report produced by ERA in 2009.

- whether the introduction of a single, common operational language (like in aviation) would be beneficial.

Limitations and robustness of findings

The evaluation faced some difficulties in producing robust quantitative comparisons with the data from 2004. This is mainly due to the lack of comparable data on the impacts of the Directive and is a limitation to the delivery of robust quantitative conclusions.

The first problem relates to the fact that no systematic data collection on the certification of train drivers takes place in the Member States. There is data on employment available both at national and European level, which, however, it is mostly limited to generally describing the employment in the rail sector without much detail.

Secondly, there is no data available on the costs and benefits linked to the implementation of the Directive, which would allow a comparison with the costs and benefits estimated in the impact assessment accompanying the proposal for the Directive. The data in the ERA report has 31 March 2013 as reference date and presents the state of play in terms of number of train drivers, licences/certificates issued, fees, training centres etc. However, the evidence gathered by ERA is incomplete, as it does not cover all Member States. Moreover, given the phasing-in schedule of the Directive, the ERA report is a snapshot at an early moment, when across Member States in average 11% of train drivers had a European driving licence. Another limitation of the ERA report concerns its scope, as it did not cover all provisions of the Directive but was focused on the following elements: procedures for issuing licences and certificates, accreditation of training centres and examiners, quality systems, mutual recognition of certificates, adequacy of training requirements specified in Annex IV, V and VI, and the inter-connection of registers and mobility in the employment market.

Furthermore, the data collected by ERA from the Member States after 2013 in the context of cooperation activities under Article 35 of the Directive has gaps and does not offer a complete picture of the implementation of the Directive.

The stakeholders in the public consultation were asked to give not only qualitative but also quantitative assessments of the effects of the Directive. The latter has proven very difficult and some of the respondents draw attention to the fact that no conclusive estimates on the sector cost were available and/or they did not have access to concrete information and statistics. In some cases, the costs incurred were not identified, while in other cases an estimate was difficult because older requirements and procedures have been updated and/or changed through the Directive.

6. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

The evaluation of the Directive was based on a series of questions, focused on the Directive's relevance, effectiveness, efficiency, coherence and EU-added value both in a general way as well as regarding specific provisions of the Directive.

6.1 Relevance

6.1.1 Relevance of the operational objectives for addressing the identified problems

Due to the increase in the cross-border operations and the fact that many RUs operate in several Member States the objective of developing and implementing operational rules harmonised at European level is still relevant. Operational circumstances differ between RUs, national networks and even in local situations; under its Safety Management System (SMS) a RU must ensure that the driver meets the requirements for a specific situation. It is important that train drivers are interoperable and have among others knowledge of the different signalling and operational rules, to ensure smooth cross-border operations and provision of reliable services for passengers and freight, thus contributing to making rail more attractive and competitive. This means that it is still relevant to have common specifications for skills for drivers in cross-border operations.

Stakeholders pointed out that flexibility and interoperability in cross-border operations depends on common European standards for staff carrying out safety-relevant tasks such as train drivers. These standards should cover both the medical and psychological fitness as well as the training and examination.

There is a consensus among the stakeholders that overall the Directive solved to some extent the problem of fragmentation regarding the licences and certificates of train drivers, by setting a common framework for certification, training and monitoring of train drivers, which however consists only in a minimum set of requirements.

With regard to the requirement of checking the physical fitness after any occupational accident or any period of absence following an accident involving persons (Annex II point 3.1), stakeholders considered that after an accident involving persons, a train driver would need psychological support rather than a physical check, the latter being often perceived by the concerned driver as a sanction. This could lead to train drivers not reporting all relevant incidents.

Moreover, stakeholders consider that increasing the number of psychological examinations is not efficient particularly in the case of psychiatric issues, where the lack of exchange of information between doctors and employers due to medical confidentiality is also risk for safety.

By defining a minimum set of requirements for obtaining the licence, the Directive has ensured some consistency in the issuing procedure and the requirements for obtaining a licence. The minimum set of requirements, some of which leaving room for interpretation and diverging assessments across Member States, contributes to a limited extent to developing and implementing harmonized rules and common specifications for medical and psychological examinations, and for regular checks. For example, the public authorities contributing to the public consultation consider the non-alignment of validity period of the licence and the intervals for health checks as inconsistent.

The stakeholders, especially RUs, suggested to explore the use of standardised and interoperable digital tools for simplifying the application for licence and update procedures in order to reduce the administrative burden and costs for RUs which operate in more than one Member State. Further, the necessary training for obtaining the licence involves familiarisation with the rules of operation and signalling that are in force in the Member State concerned, therefore differences between Member States continue to exist.

With regard to the complementary certificate, common requirements for the same rolling stock and for similar infrastructure would help to simplify the training of the drivers, even though the rolling stock used by different RUs and in different Member States still varies. Different interpretations in Member States of the required competences for rolling stock and infrastructure create obstacles for mutual recognition of certificates, especially for cross-border services.

Moreover, the stakeholders consider that in the absence of a uniform definition of an infrastructure registry, the specification of the infrastructure routes on the complementary certificate is not standardized. Since the end of stakeholder consultation there was progress with regard to the Register of Infrastructure (RINF), which aims at providing a general description of the rail networks within EU. ERA set up and manages a computerised common user interface, which simplifies queries of infrastructure data. This interface is in production since end of October 2015. As of end May 2018, around 62 % of the total expected data were already imported by the entities in charge of the RINF implementation at national level.

As provided for in the Technical Specification for Interoperability relating to the Operation and Traffic management Subsystem of the Rail System (TSI OPE)³¹, the train drivers shall be provided with a document called the “Route Book”. This document includes the description of the lines and the associated line-side equipment for the lines over which they shall operate and relevant for the driving task. The IM shall provide the RU with at least the information for the Route Book as defined in the Annex to TSI OPE through RINF. Based on these developments, aligning the specifications on the infrastructure in the complementary certificate with the information in RINF and Route Book could provide for more harmonisation of the content of the complementary certificate.

Basic principles of the certification scheme are closely linked to key elements of the Directive (EU) 2016/798 on railway safety (recast)³² such as the definition of the competent authority, which is the NSA within the meaning of that Directive. The impact of the changes brought by the Directive (EU) 2016/798, i.e. the new role of ERA in the safety authorisation, on the definition of the competent authority would have to be assessed. The same applies to Article 5 of Commission Decision 2011/765/EU on the recognition by the Member States of the training centres belonging to a RU or an IM. They are recognised in combination with the safety certification or safety authorisation process in accordance with Safety Directive. This Article might have to be revised, given the change in responsibilities regarding the issuance of safety certificates (i.e. ERA instead of the NSAs).

6.1.2 Relevance of the requirements as instruments to achieve the objectives

The requirements concerning the licence and the complementary certificate were, to a limited extent, the right instrument to achieve the objectives.

³¹ Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision, OJ L 139I , 27.5.2019, p. 5–88

³² OJ L 138, 26.5.2016, p. 102

The framework provided by the Directive seems to be the right one to achieve common minimum requirements, although the skills required for the licence are currently a small part of the skills that a driver must have to drive a train.

One of the requirements for the licence is the successful completion of nine years of primary and secondary education (Article 11.1). Neither is the relevance of this requirement clear for the competency of the train driver nor is any standard of education required. Further, public authorities consider that the provisions concerning education are difficult to implement due to differences in the educational systems.

Furthermore, the conditions of psychological assessments, costs and contents of general competence trainings are not enough harmonised and concretised to fully meet the objectives on common specifications for psychological profiles and minimum requirements for medical examination and regular checks.

Concerning the requirements for the complementary certificate, even though the rolling stock used by different Rail Undertakings and in different countries still varies very much, common requirements for complementary certificates for the same rolling stock and similar infrastructure would help to simplify the training of the train drivers. There is a lack of specific certificate requirements for train drivers in cross-border operations. Moreover, as pointed out also by the train drivers participating in the consultation, the duration of training vary across Member States between 24 and over 600 hours; this raises questions about the proportionality of the training.

The Rail Undertakings commented that the general level B1 language requirements are too high, difficult and expensive to implement. Another stakeholder considered level B1 as too high and suggested B1 level for listening and speaking and a lower level, A2, for writing. In its report on rail freight transport in the EU³³ the European Court of Auditors recommends that the European Commission and the Member States should also assess the possibility of progressively simplifying language requirements for locomotive drivers to make medium- and long-distance rail freight traffic in the EU easier and more competitive.

Including more competences from the certificate in the licence would enhance the flexibility of train drivers to operate in different Member States. Moreover, the train drivers should have the possibility to renew their licences in case of long-term unemployment and to obtain languages certification at their own initiative.

6.1.3 Conclusions

The operational objectives of the Directive continue to be relevant. Overall, the Directive led to a certain degree of harmonisation and consistency in the requirements for licences and complementary certificates by setting minimum requirements. Therefore, the Directive solved to some extent the problem of fragmentation regarding the licences and certificates of train drivers, by setting a common framework for certification, training and monitoring of train drivers.

The objective of developing and implementing operational rules harmonised at European level is still relevant, for providing flexibility and interoperability in cross-border

³³ https://www.eca.europa.eu/Lists/ECADocuments/SR16_08/SR_RAIL_FREIGHT_EN.pdf

operations, and hence overcoming operational difficulties in cross-border services. The latter remains relevant against the background of increase in cross-border operations and the number of RUs active in more than one Member State, which requires more and more interoperable train drivers. The requirements concerning the licence and the complementary certificate are, to a limited extent, the right instrument to achieve the objectives, due to the insufficient harmonisation and concretisation of requirements.

6.2 Effectiveness

The analysis of effectiveness defines whether and to what extent the intervention has brought the envisaged effects with reference to the stated objectives.

6.2.1 Facilitating the mobility of train drivers between Member States

Through the mutual recognition of licenses and certificates, the Directive makes it easier for train drivers to work in different Member States. However, even though the basic requirements are the same, the framework set by the Directive is too wide, the aim of some requirements is not clear, and the role of the various actors in the certification process is not described precisely enough. Hence, the measures taken by the Member States could lead not to harmonisation but on the contrary to fragmentation due to divergent implementing measures, which could impact the mobility of train drivers between different Member States.

Some stakeholders perceive the absence of a single document combining licence and certificate valid in the EU as an obstacle to the mobility of train drivers between Member States. A first step in that direction would be simplifying the training of train drivers by developing common requirements for the complementary certificates for the same rolling stock and similar infrastructure.

6.2.2 Facilitating the mobility of train drivers between Rail Undertakings

The Directive contributed to facilitating the move of train drivers from one employer to another. The harmonised definition of competences, the standardised copy of the complementary certificate, all this combined with the harmonised licence make it easier for the new employer to assess the competence of a train driver, who has obtained competences in another company. In this respect, it is highly beneficial that the former employer must release a certified copy of the former complementary certificate including detailed information about acquired knowledge and working experience. Furthermore, the fact that the licence is personal property of the train driver and not of the employer seems to facilitate the passage from one company to another.

The mobility of train drivers between RUs operating in the same Member State is certainly facilitated by the Directive, for example because both former and new employer operate on the same network. However, as also pointed out by stakeholders, it is not necessarily the licence influencing the mobility of drivers between companies in the same country, but the mutual recognition of complementary certificates.

Unclear provisions, leaving room for interpretation, have an impact on the mobility of train drivers between RUs; for example Article 24 of the Directive requests Member States to ensure that RUs or IMs do not unduly benefit of the investments made by other companies in training the drivers. While this principle is understandable, there is no

guidance in the Directive on how to compensate in practice the source company for the training given to the train driver for obtaining the certificate, in case the respective train driver changes the company. This leads to various arrangements in place in the Member States, from provisions rooted in national law (such as labour law) to leaving it up to employers to deal with it. The latter concretises in clauses included in the work contract and stipulating for example that the train driver has to work for a certain number of years for that very company, for the training costs to be covered. In case of leaving the company before the end of this compulsory period, then the driver has to make a termination pay. This is a constraint for mobility because train drivers who wish to change the employer but cannot afford the termination pay, have to wait for the end of the compulsory period to do so.

6.2.3 Contribution to maintain (or even raise) the safety level of the railway system

The Directive contributes to achieving the safety objective. By establishing minimum common requirements for certification of train drivers, the Directive raised awareness of industry and NSAs concerning the importance of staff competences in the field of safety. Due to the Directive, best practices of some Member States have been extended to other Member States; at the same time, there is more clarity on the responsibilities of the various actors involved in the certification.

Thanks to a consistent approach on physical fitness and competence standards, the Directive helps maintain the safety level.

However, it is difficult to estimate the direct contribution of the Directive to maintaining (or even raising) the safety level of the railway system, because the safety level was already very high when the Directive entered into force. One Member State reports that the safety-related objectives of the Directive were already fulfilled at national level when the Directive entered into force. Along the same lines, a RU comments that the minimum requirements set out in the Directive were already met or exceeded in most of the countries they operated in.

The Directive does not include any provisions on the duration of training for the certificate and the number of training hours varies across Member States (between 24 and over 600 hours); this could lead to questions about the quality of the training and lowering the standards in order to reduce the costs, and hence the possible impact on safety.

The stakeholders also draw the attention to the fact that requirements and procedures alone - including those brought by the Directive - are not themselves sufficient to ensure the operational safety, they have to be properly implemented and enforced.

It is necessary to better reconcile the requirements for safety in the rail sector with the need for rail to be attractive and competitive. Overall, the language requirements are perceived as not being very effective in ensuring a high level of safety while allowing efficient operation of the rail network. This is particularly true in case of disruptions on the railway network of a Member State requiring the use of deviation routes through neighbouring Member States. In those cases, train drivers with specific language skills are sought at short notice to drive on deviation routes, hence ensuring the continuity of operations, as it was the case when, due to an incident in Rastatt, the Karlsruhe-Basel line

was closed for all traffic for a period of seven weeks in August-September 2018³⁴. Although diversion routes were available, the capacity on these routes was limited and interoperability proved to be a major hurdle. Many locomotives were not equipped to operate on the railway network in neighbouring countries and train drivers with the language and route knowledge to operate a train in another country were not sufficiently available.

Commission Regulation (EU) 2019/554 of 5 April 2019 amends the Directive with regard to language requirements and creates the legal basis for exploring alternative options to the current language requirements allowing for greater flexibility while ensuring at least an equivalent level of safety with the current requirements. Those options could consist in more targeted language requirements (i.e. with focus on rail specific terminology), or to a lower general language level combined with alternative means to support effective communication. They should ensure an active and effective communication in routine, degraded and emergency situations.

The Directive does not foresee the possibility of introducing a single operational language; however, this issue was addressed in various discussions with stakeholders and eventually in the public consultation. Fifty-one percent of the respondents considered the introduction of a single, common operational language at least to some extent beneficial especially for cross-border traffic, as it could simplify the language training and increase safety, but at the same time, be a costly requirement.

6.2.4 More efficient management of interoperable train drivers

Before entering into force of the Directive, the Member States had to conclude bilateral agreements for the recognition of licences. The stakeholders consider that the EU-wide recognition of the licence has a positive impact on assigning train drivers to operations in various Member States; however, this impact is limited because only a minimum of basic skills and qualifications is requested for the licence; most specific skills and competences are required for the complementary certificate.

Further to the common requirements for certificates, they have a limited impact on EU-wide interoperability of train drivers since an important part covers the safety and operational rules, which are national and/or depend on the IMs.

The lack of EU-wide training programmes makes it difficult for RUs operating cross-border services to issue certificates that allow driving in another country, hence limiting the impact of the certification scheme on the assigning train drivers to operations in different Member States. Different interpretations in Member States of the required competences for rolling stock and infrastructure create obstacles for mutual recognition of certificates, especially for cross-border services.

³⁴ The Karlsruhe-Basel railway line is part of the important north-south corridor connecting the ports of Rotterdam, Hamburg and Antwerp with Switzerland and Italy. The Rastatt incident and ramifications led to big financial losses and reputational damage for the rail freight industry. Economic damage was estimated to be more than two billion Euros according to HTC Hanseatic Transport Consultancy, the European Rail Freight Association (ERFA), the European Rail Network (NEE) and the International Union for Combined Rail-Road Transport (UIRR). Moreover, rail transport lost an approximate one per cent of its market share in Switzerland.

For safety reasons, it is essential that the train drivers are able to communicate actively and effectively with the IMs in routine, adverse and emergency situations. However, the language requirements are perceived as an obstacle to achieving EU-wide interoperability of train drivers as well as for simplifying their training, since they create considerable extra costs for RUs, and limit the attractiveness of cross-border operations.

With regard to monitoring of train drivers, the provisions of the Directive are not always clear when it is about the allocation of responsibilities/tasks to the actors. One public sector entity reports examples where it was unclear if it was the license or the certificate to be withdrawn and who (i.e. the competent authority or the employer) was supposed to act. Moreover, the shared responsibility between the competent authority and the RUs/IMs can lead to difficulties (for example in case of periodic medical checks). The public sector entities consider for example that having a register for licences and another one for certificates makes monitoring of train drivers is more difficult. Further, Article 17 of the Directive requires that the RU shall inform the competent authority about cessation of employment. For the RUs, the reason behind this obligation is not clear, as there is no obligation to report the start of the work for a RU to the competent authority and there is no process triggered by reporting to the competent authority.

6.2.5 Form of intervention

As regards the adequacy of the form of intervention, in principle the idea of a Directive was good, giving the Member States the freedom to take the measures they consider appropriate to achieve the goals. However, the Directive sets a too wide frame for example by not setting any quantitative targets, not spelling out clearly the role of various actors in the process or the clear purpose of requirements (see also section on implementation). Hence the measures taken by the Member States could lead not to harmonisation but on the contrary to fragmentation due to divergent implementing measures, which could create problems for interoperability of train drivers.

More prescriptive and detailed provisions would have been beneficial for implementing common minimum requirements for certification of train drivers.

Accompanying the Directive by guidelines for implementation would have been beneficial for a consistent interpretation of the provisions of the Directive and hence, avoid different interpretations and applications of the provisions.

6.2.6 Conclusions

The Directive was effective in contributing to enhancing and facilitating the mobility of the train drivers as well as easing, for the employer, the assignment of train drivers to operations in various Member States. However, there are some weaknesses, which seem to be mainly linked with differences between Member States in the implementation of the Directive and with setting national standards. The Directive set consistent requirements for operation in different Member States; however, as they are minimum requirements, national standards go sometimes further than the Directive.

The EU-wide validity of the licence has a positive impact on assigning train drivers to operations in various Member States. However, this impact is limited because only a minimum of the level of skills and qualifications is requested for the licence; most skills are required for the complementary certificate (valid only on specific infrastructure/rolling stock). The certificate part of the Directive has a limited impact on

EU-wide interoperability of train drivers since an important part covers the safety and operational rules, which are national and/or depend on the Infrastructure Manager.

The set-up of the Directive, lacking details, being not specific enough and the absence of interpretative guidelines, led to differences in interpretation, understanding and implementation, which had an impact on interoperability as well as on the achievement of the objectives.

6.3 Efficiency

The efficiency of the Directive refers to achieving its effects with a reasonable use of resources and whether the same results could have been achieved with fewer resources.

6.3.1 Expected impacts of the Directive

According to the impact assessment of the Directive, maintaining the status quo (i.e. the patchwork of national certification schemes) would have entailed a loss of Euro 66.5 million for the EU-25, while the benefits of the Directive were estimated at Euro 226 million and the costs at Euro 169 million³⁵.

6.3.2 Costs incurred due to complying with the Directive

The Directive certainly provided a framework for consistent requirements for train driver licences and certificates but the details and processes have created an additional layer of bureaucracy and burden falling upon several entities (NSAs, employers, and drivers) and increased the costs for RUs.

With regard to the types and levels of costs (including fees and charges) incurred due to complying with the requirements of the Directive, several categories of costs were identified, based on the examples given by the a few participants to the public consultation.

The various fees vary across Member States, for example, the fee for issuing the licence varies from 0 to 224 Euro. The fees for issuing a duplicate licence are lower than for the original licence. Some stakeholders who contributed to the public consultation consider that a harmonisation of the procedure for obtaining the licence would also require harmonising the fees for obtaining a licence.

To give another example, in a Member State, the fee for examination of a train driver is 800 Euro, while for the certification of an examiner the fee is 1000 Euro for the first year and 500 Euro per subsequent year. In some Member States, the fees are reduced for operators of historical trains.

³⁵ These estimations were based on the following assumptions:

- approximately 200.000 train drivers in EU-25, out of which at most 5% (i.e. 10.000 drivers) concerned by the first phase of implementation (i.e. cross-border services);
- an annual increase of 5% in the number of train drivers, following increases in cross-border traffic, i.e. 500 drivers annually;
- an annual staff turnover of 5%, i.e. 500 drivers/year.

This led to the conclusion that there would be 1.000 drivers to be certified each year in phase 1 (cross-border) but 10 000 in phase 2 (all other drivers).

The fee for recognition of training centres also varies from one Member State to another. For the various fees, there are different payment schemes in place, e.g. the fee can be paid for a period of 5 years, per hour or the fee for renewal could be lower than the fee paid the first time.

Below there are some categories of costs, identified by NSAs:

- costs linked to the registers for licences and complementary certificates (including human resources). One NSA estimated that the management of the National Register for Licences, which has to be set up according to the Directive, required the equivalent of a full time post. However, the costs setting the NRL could be understood as one-off costs, given that the registers were set up once.
- development costs for the design, testing and material for the licences. One NSA estimated these costs at about 12.710 Euro.
- costs linked to submission of applications for licences. One NSA considers that these costs increased due to the Directive because the application file includes more documents to be assessed than it was the case before the Directive entered into force.
- costs for the issuance of the licence and the migration to licences based on the Directive. With regard to the latter, one NSA estimated that it required the equivalent of two full time posts until 13 January 2017. costs for printing and sending out the licences. One NSA estimated the costs at about 26.608 Euro for 4.700 licences issued
- costs for the appointment of examiners (both in terms of administrative procedure and human resources).

According to a NSA, the Directive increased the workload that was not reflected in an increase in the number of staff.

Another example shows some of the categories of costs incurred to RUs are linked to:

- Application, issuing, and updating of licences and complementary certificates. An RU consider that he costs for issuing and updating the certificate would be lower, if the certificate would be displayed on mobile devices such as tablets.
- Change of existing licences;
- Production of complementary certificates (labour and material costs);
- More frequent examinations of train drivers (examination costs and more difficult management of drivers / replacement costs);
- Oversight of training facilities, recognition and renewal of accredited/recognised examiners;
- Training (increased costs for language training after introduction of level B1).

An RU estimated the costs for a period of 10 years as follows: Euro 4,8 million for the licence, Euro 0,5 million Euro for the IT development of the register for complementary certificates, Euro 16 million for the periodic psychological assessment, and Euro 42 million for the certificate global process. However, the costs for the IT development of the register for complementary certificates could be understood as one-off costs, given that the registers were set up once.

The stakeholders also report on the high administrative burden related to the administrative procedures to follow for the issuance and update of the certificates, which

can be very complex. In one Member State, the introduction of the complementary certificate created an additional administrative burden for all domestic RUs.

The possibility of gradually phasing-in the harmonised certification has resulted in temporary extra administrative burden for some Rail Undertakings with cross-border operations, since the implementation date for the harmonised certification documents varied across the Member States. In addition, there are some other tasks causing a high administrative burden to RUs such as the requirement to register the date of the last examination in the complementary certificate, or even to both NSAs and RUs. An example for the latter is the NSA having to register periodic health checks, while the RU must also keep track of this information, which is double administration and creates confusion regarding responsibilities.

Given that the evidence is only anecdotal, it is difficult to quantify the sector costs incurred due to compliance with the Directive, and hence to make a reality check of the expected impacts presented in the impact assessment of the Directive. In addition, it is difficult to make an estimation of the impact of putting in place the new certification scheme also because the Directive did not fill a vacuum at national level; there were already national certification schemes in place. This implies that older requirements and procedures have been updated and/or changed and hence some of the costs incurred are one-off costs due to adaptation of national certification schemes to the requirements of the Directive.

6.3.3 Benefits achieved by complying with the Directive

The benefits of complying with the Directive were not apparent to all categories of stakeholders. For the Public Authorities, the submission process for the licence is more clear and simple since the Directive entered into force. In addition, it is easier to ensure that the train drivers meet all requirements for the licence. Moreover, the NSAs have now more complete and on-line information about each train driver on the infrastructure and rolling stock. Previously, when this information was needed, they had to send a request to the respective RU.

One NSA reported that being responsible for the maintenance of NRL helps to ensure a higher level of control.

For the cross-border operating RUs it is beneficial that the Directive set up a common framework to be followed also by their counterparts, as well as that now they have to issue one single complementary certificate valid in the EU as opposed to one for each Member State, which was the case before the Directive entered into force.

Further, due to its specificities and limitations, the ERA report does not include any figures on the benefits achieved by complying with the Directive.

6.3.4 Proportionality between costs and benefits

The costs incurred by complying with the Directive were not perceived by the stakeholders as being proportional with the benefits achieved. This could be due to the lack of awareness of the stakeholders with regard to the real costs incurred due to complying with the Directive (and hence considering them too high based on no evidence) and the benefits of the Directive not being apparent to all categories of stakeholders (e.g. train drivers). Moreover, the stakeholders gave only punctual examples of perceived disproportionality between costs and benefits.

One NSA reports that the costs incurred for processing the application for licences, applications and recognition of trainers and assessors were significant. These costs were covered by the means of a levy on RUs and IMs for all the work undertaken by this NSA.

For another NSA, the tasks imposed by the Directive (such as handling the information from periodic medical checks and keeping the register of licences updated) have increased, in a disproportioned way, the costs and need for human resources.

One RU comments that in its country a number of cost effective systems, which were already implemented by RU, had to be replaced by a licensing largely out of the control of RUs and with no transparency of the costs incurred.

Several problems have been reported concerning the format of the certificate, which is considered ineffective. The format is too small and too costly while an A4 format would have been more efficient from a practical and an economical point of view. In addition, the concept of an exclusively paper based document seems to be outdated. A large majority of stakeholders consider that introduction of smart cards³⁶ could bring benefits in terms of reducing costs and administrative burden, more difficult to counterfeit than paper documents, making the update of licence and certificate easier as well as controls on site. Stakeholders also draw attention to the fact that the information and communication technologies advanced since the Directive entered into force and the smart card is already outdated. Therefore, the discussion should not be focused on a certain information carrier or technology but on the functionalities to be enabled, i.e. making the relevant information accessible.

Some Member States already consider replacing the current paper based approach by an appropriate electronic tool or even use electronic application in parallel to the paper document.

Furthermore, the stakeholders consider that developing a more tailored made and cost-effective IT system for certification of train drivers (e.g. for submitting applications) would reduce the administrative burden by simplifying procedures.

The stakeholders acknowledge that the certified copy of the complementary certificate³⁷ provides information related to the rolling stock competences and infrastructure knowledge of the train drivers in a harmonised way, beneficial for the mobility of train drivers. According to some stakeholders and NSAs, a more efficient solution would be a real 'copy' of the certificate having identical layout but clearly marked as 'copy', or, alternatively, a defined extract of the complementary certificate register.

6.3.5 Conclusions

On efficiency, the estimations on costs and benefits made in the Impact Assessment of the Directive could not be verified during the evaluation due to the lack of reliable figures on real costs and benefits. Based on the contributions to the public consultation it

³⁶ Article 34 of the Directive foresees the examination of the possibility of using smartcards combining the licence and certificates. However, the cost-benefit analysis hereof prepared by ERA in 2012 showed that the initial and operational costs would be too high. Based on this conclusion, no further action has been taken in this respect.

³⁷ Annex III of Commission Regulation (EU) 36/2010 on the 'Community model of certified copy of complementary certificate'

was possible to identify some categories of costs incurred due to complying with the Directive, however only a few quantitative examples have been collected.

The benefits brought by the Directive do not seem to be apparent to the stakeholders participating in the public consultation; this could also be due to lack of awareness about the benefits for their organisations as a whole. Moreover, as stated by some stakeholders, in the absence of conclusive estimates on the sector costs and with no access to concrete information and statistics it was difficult to estimate benefits and costs. With regard to the costs incurred, it has to be taken into account that the certification scheme based on the Directive replaced national certification schemes already in place. Therefore, older requirements and procedures have been updated and/or changed according to the Directive and hence, some of the costs incurred are one-off costs due to adaptation of national certification schemes to the requirements of the Directive.

6.4 EU-added value

The assessment of the added value of regulating a policy at European level is a basic requirement for all EU legislation in order to show that the subsidiarity principle has been taken into account and the same results could not have been achieved by regulation at national level.

Before the adoption of the Directive, in the absence of a certification scheme with EU-wide acceptability and comparability, the licences and certificates obtained in a Member State were not recognised in another Member State. This patchwork of national solutions led to duplication of training with all the significant effort, costs and time involved. The intervention addressed that patchwork of national solutions by setting a framework enabling the EU-wide acceptance and comparability of procedures and requirements as well as eliminating the duplication of efforts and costs.

6.4.1 Creating a framework for EU-wide acceptance and comparability of procedures and requirements for licences

The evaluation showed that the Directive is a first step towards creating a framework for EU-wide acceptance and comparability of procedures and requirements for licences.

The Directive sets common minimum requirements, leaving room for manoeuvre to the Member States to set stricter standards, which might lead to differences in implementation, and hence affect the comparability of procedures. The framework set by the Directive is too wide and the role of the various actors in the certification process is not always clear. In addition, the fact that some requirements are unclear or incomplete (such as those referring to medical and occupational psychological requirements), leads to further differences in implementation across EU, which reduce the impact of the Directive on facilitating cross border operations and mobility of train drivers.

6.4.2 Creating a framework for EU-wide acceptance and comparability of procedure and requirements for certificates

The evaluation showed that this objective has been only partly achieved. The Directive is a first step in the right direction and provides a high level framework for the procedures and requirements, and each Member State had to work out in more detail the concrete implementation measures.

Although the Directive has improved the situation, by achieving a certain degree of harmonization at EU level and removing the patchwork of national solutions, the lack of coherence in the implementation of the Directive across Member States impacts on the framework for EU-wide acceptance and comparability of certificates. This becomes more evident in case of cross-border operations, where a RU might have to relate to different NSAs, each of them with its own interpretation of the Directive. Moreover, the issuers of the complementary certificates have the possibility of setting higher standards, e.g. for the frequency of the periodic examinations/tests.

The content of the complementary certificate leaves room for interpretation; each company can decide for itself and this leads to discrepancies within Member States. Inter-Member States variation is even greater: the level of details in the certificate varies from one Member State to another. In case of entries regarding the infrastructure, the acceptance and comparability is limited by differences in meaning of the entries or the way they are formulated. One reason for these differences lies within the very different levels of technical equipment of the infrastructure in the Member States. Overall, there is still room for improvement as regards the practicability of the requirements for the complementary certificates, especially when they are specific and detailed.

6.4.3 Eliminating the duplication of efforts between Member States regarding licences

The contribution of the Directive to eliminating the duplication of efforts between Member States regarding licences is limited. While the new certification scheme prevents the duplication between Member States for drivers engaged in cross-border operations, its benefits are not apparent for drivers in domestic operations.

Furthermore, the lack of clarity of some provisions of the Directive limits its benefits. For example, the Directive is not clear about the validity of documents issued by a person or centre recognised in another Member State; this sometimes leads to non-acceptance of the training or medical checks performed in another Member State.

6.4.4 Eliminating the duplication of costs regarding licences between Member States

The contribution of the Directive to eliminate the duplication of costs regarding licences seems to be limited, even though the licence issued based on the Directive is valid EU-wide.

Before the Directive entered into force, there was generally rather little involvement of the Member States in the appointment or competence management of the train drivers. The Directive eliminated the duplication of some costs for the drivers in cross-border operations (e.g. for the medical assessment), but in all other aspects there was no perceived reduction of the costs. The fact that each Member State has to set up a NLR and these registers are not shared for example as a central European register of licences, leads to the competent authorities making the effort of developing and maintaining separate national registers.

6.4.5 Eliminating the duplication of efforts between Member States regarding the complementary certificates

The Directive defines the basic requirements and each Member State defined their own national requirements for the certificate, reflecting the provisions of the Directive.

However, the implementation of the requirements as well as the process was carried out at national level. With the option to set higher standards than the ones set in the Directive, there is still a possibility that the complementary certificates issued in one Member State do not fulfil the requirements in another Member State.

More harmonisation at EU level would lead to eliminating the duplication of efforts between Member States regarding the complementary certificates.

6.4.6 Eliminating the duplication of costs regarding complementary certificate

The duplication of costs was not completely eliminated, due to the room for manoeuvre for the Member States concerning implementation as well as unclear provisions of the Directive, which led to differences in implementation. For example, requirements differ from one Member State to another concerning the entries on the complementary certificate. Furthermore, the implementation of the requirements for complementary certificates led to additional costs when the Directive entered into force when the old certification scheme was replaced. However, some of these costs are one-off costs (e.g. for setting up the registers).

6.4.7 Conclusions

Further action at EU level would be needed to fully achieve the objectives of creating a framework for EU-wide acceptance and comparability of procedure and requirements for licences and complementary certificates to facilitate cross border mobility of trains and train drivers. Differences in implementation of the Directive across Member States as well as the fact the requirements at national level might be stricter than the ones set in the Directive reduce the impact of the Directive. Furthermore, the value added of the Directive could be increased by addressing the issues discussed under "Effectiveness" and "Efficiency".

6.5 Coherence

Coherence concerns the question of complementarity and consistency with the other EU policies and legislation with similar objectives. This part examines how well the Directive interacts with other EU interventions in achieving the goals and looks at the coherence with EU legislation with possible cross impacts.

6.5.1 Coherence with the EU policy goals

The 2011 Transport White Paper emphasises that, for rail transport, the harmonisation and supervision of safety certification are essential in a Single European Railway Area. Furthermore, it calls for:

- An appraisal of the sectoral social dialogue processes taking place in the various segments of the transport sector to the end of improving social dialogue and facilitating its effectiveness.
- Ensure employee involvement, in particular through European Works Councils, in transnational companies in the sector, and

- Address quality of work in all transport modes, with respect to, notably, training, certification, working conditions and career development, with a view to creating quality jobs, developing the necessary skills and strengthening the competitiveness of EU transport operators.

As regards direct support to training, certification and working condition, the Directive is the only EU legislative measure to support this goal with regard to train drivers, by setting a framework overcoming the differences in certification conditions for train drivers across Member States and facilitating their mobility, while maintaining the high level of safety of the EU railway system. Being a result of social dialogue, the Directive is also in line with the aim of supporting the dialogue between social partners, and between the Commission and the Social Partners in the Sectoral Social Dialogue Committee Rail.

However, the evaluation showed that the Directive is not fully aligned with the aforementioned Council Directive, where the clause 1 states that cross-border services, which are operating in a corridor of 15 km parallel to the border, are only optionally considered as cross-border services³⁸, while cross-border services are not defined in the Directive. The absence of this definition in the Directive leads to uncertainties in applying the provisions of Directive 2016/882/EC that gives the possibility of exempting the train drivers reaching only the first station after crossing the border from level B1 of language requirements.

Furthermore, by facilitating the mobility of train drivers not only between companies but also between Member States, the Directive is in line with wider policy objectives of achieving a deeper and fairer internal market and an economy that works for the people, with a strengthened industrial base. Mobility of workers should be promoted especially in fields with work force shortages, as is the case for train drivers.

Measures that make rail more competitive and attractive, by reducing costs and burdens to operate, contribute to making transport more sustainable and are therefore in line with the European Green Deal for the EU³⁹.

6.5.2 Coherence with specific rail legislation

As mentioned under “Effectiveness” the impact of the changes brought by the Directive (EU) 2016/798 on railway safety, i.e. the new role of ERA in the safety authorisation would have to be assessed.

Furthermore, the terminology used to describe the rolling stock and infrastructure competences of train drivers differs from one legal act to another:

- Annex V of the Directive refers to “professional knowledge of rolling stock” and requirements regarding the certificate,
- Annex VI of the Directive refers to “professional knowledge of infrastructure and requirements regarding the certificate”
- Decision 2010/17/EC refers to the “rolling stock/infrastructure on which the driver is authorised to drive”, and

³⁸ A similar definition is to be found under point 2.2.1 of TSI OPE.

³⁹ https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en

- Commission Regulation (EU) 36/2010 refers to “each type of rolling stock/extent of infrastructure”.

In the absence of a common way of describing competences on the certificates, these competences are described differently from Member States to Member States and sometimes even from company to company within the same Member State. Some Member States have developed their methodology to describe this competence on the certificate. These differences in how the competences are described are not beneficial for the mutual recognition of certificates and reduce requirements to what is strictly required. This is important also because of its indirect impact on the number of ‘periodic checks’ performed in accordance with Article 16 and Annex VII of the Directive and depending on the fineness of the classification of types or lines applied.

6.5.3 Conclusions

The Directive is coherent with the overarching priorities of EU transport policy but updates would be required. As regards the coherence with other pieces of EU legislation, no contradictions could be observed. However, the Directive does not reflect the evolution since 2007 of the relevant legislative landscape, especially the technical pillar of the 4th Railway Package including the new responsibilities of ERA in the authorisation process, as well as the accompanying acts such as TSI OPE.

7. CONCLUSIONS

The Directive supports the transport policy objectives and continues to be as relevant today as it was 2007; without action at EU level, the sector would face even more obstacles resulting from the patchwork of different national certification schemes. Hence, the Directive continues to add value at EU level.

Since it entered into force in 2007, the Directive has contributed to achieving a certain degree of harmonisation and consistency with regard to the certification scheme of train drivers and has thereby contributed to maintaining the safety level.

The patchwork of national certification schemes has been replaced by a certification scheme including a licence with EU-wide validity and complementary certificates for rolling stock and infrastructure, and setting a framework with minimum common requirements for both licence and certificate. However, the main problem of fragmentation has not been completely solved; the lack of detail of some provisions of the Directive, incompleteness and unclear purpose of some provisions, as well as by the freedom left to Member led to differences in interpretation and implementation across Member States and impacted the achievement of the objectives..

The absence of guidelines for implementation accompanying the Directive had an impact on the coherent interpretation (and hence implementation) of the Directive across Member States.

The Directive has been effective in contributing to enhancing and facilitating the mobility of the train drivers as well as easing, for the employer, the assignment of train drivers to operations in various Member States. This generally contributes to making rail more efficient and hence more competitive. However, the Directive offers Member States the possibility of setting stricter requirements for the licence than the minimum common

requirements; this could be counterproductive for operations in the Single European Railway Area and for the mobility of train drivers from one Member State to another.

Moreover, the skills and competences to be covered by the licence and the certificate, and the delineation in terms of content between the two documents could be revisited to better facilitate the mobility of train drivers. This would provide more flexibility.

In terms of the skills and competences, in particular the level of language requirements seems not to be adequate and cause a high financial burden. In this respect, it is expected that the pilot projects carried out based on Regulation (EU) 2019/554 and exploring alternative options to the current language requirements will provide findings to be taken into account in a possible revision of the requirements, and the use of IT tools supporting the train driver in communicating with the infrastructure manager.

Further, the impact of the technological progress (e.g. of ERTMS) on the certification scheme as such could be assessed, as it could contribute to more flexibility and simplification of the certification scheme, as well as to efficiency gains (for example by reducing the costs for updating the certification documents). This assessment should be embedded in a broader analysis of how technological developments shape the job profile of train drivers as well as the skills required. In addition, relevant findings from social research on the transition to automation should be considered, for example done by the Social Partners as well as other relevant activities such as in the context of the Blueprint for sectoral cooperation for skills⁴⁰. The rail supply and transport industries is one of the next six sectors eligible for funding under Erasmus+. The evaluation showed that there is significant margin for further improving the effectiveness of the Directive, owing to the fact that some of its provisions are outdated, its language is sometimes ambiguous, and its scope might need adjustment.

As regards the efficiency of the Directive, there is no data available on the costs and benefits linked to the implementation of the Directive, which would allow a comparison with the costs and benefits estimated in the impact assessment accompanying the proposal for the Directive. This indicates the need for better data collection in the future.

However, even though no robust evidence with regard to the costs and benefits of the Directive is available, inconsistent implementation by Member States could have led to efficiency losses. The stakeholders reported that in some cases, the tasks imposed by the Directive increased the costs and the need for human resources. However, national certification schemes were already in place before the Directive entered into force; hence, some of the costs incurred were due to adapting the old system to the new certification scheme. Moreover, some of the costs due to complying with the provisions of the Directive were one-off costs caused by putting in place the new certification scheme. More extensive use of digital technologies could lead to efficiency gains.

While the Directive is in very general terms still coherent with the overarching priorities of EU transport policy, updates are required to increase relevance and efficiency through immediate and undistorted implementation of its requirements underpinning a European transport system that remains safe, reliable and affordable while becoming more sustainable and efficient, including less costly. As regards the coherence with other

⁴⁰ This is one of the key initiatives of the new skills agenda for Europe, under which stakeholders work together in sector-specific partnerships, also called sectoral skills alliances, to develop and implement strategies to address skills gaps in these sectors.

<https://ec.europa.eu/social/main.jsp?catId=1415&langId=en>

pieces of EU legislation, no obvious contradictions could be observed. However, the Directive does not reflect the evolution since 2007 of the relevant legislative landscape, especially for seamless rail transport operations based on full interoperability as the requirements of the technical pillar of the 4th Railway Package including the new responsibilities of ERA in the authorisation process and the obligations in creating a single European Rail Area.

Annex 1: Procedural information

1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES

DG Mobility and Transport

2. ORGANISATION AND TIMING

The evaluation of the Directive has been launched in November 2015 and was assisted by an Interservice Steering Group composed of representatives of different Directorates General including DG EMPL, DG GROW, DG COMP, DG NEAR, the Secretariat General, the Legal Service and ERA as observer. The Group steered and monitored the progress of the exercise, ensuring the necessary quality, impartiality and usefulness of the evaluation. Being composed of members from different functions and having the necessary mix of knowledge and experience, the Steering Group brought together a range of different perspectives and provided the necessary input, in particular where the evaluation touched different policy areas.

To date the Interservice Steering Group met three times, on 17 November 2015, 11 July 2016, and 22 October 2019, with exchanges per email between the meetings.

The members of the Group discussed and approved all evaluation documents, i.e. roadmap, evaluation matrix, evaluation strategy. Following the approval of the evaluation documents, the members of the Steering Group have extensively discussed the questionnaire for the public consultation.

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

Not applicable

4. CONSULTATION OF THE RSB (IF APPLICABLE)

Not applicable

5. EVIDENCE, SOURCES AND QUALITY

The main sources of information were:

- The report produced by ERA in December 2013 according to Article 33 of the Directive. The data in this report has 31 March 2013 as reference date and presents the state of play in terms of number of train drivers, licences/certificates issued, fees, training centres etc. However, the evidence gathered by ERA is incomplete, as it does not cover all Member States. Moreover, this report did not cover all the provisions of the Directive but was focused on procedures for issuing licences and certificates, accreditation of training centres and examiners, quality systems, mutual recognition of certificates, adequacy of training requirements specified in Annex IV, V and VI, and the inter-connection of registers and mobility in the employment market.
- The open public consultation from 3 March 2016 to 6 June 2016 and, in addition, bilateral discussions with stakeholders as well as the stakeholder meeting on 1 July 2016.

The evidence gathered during the public consultation was mostly qualitative; the quantitative evidence collected was exemplary due to the absence of reliable figures on costs and benefits, lack of awareness of the respondents regarding the benefits and costs incurred to their organisation, and confidentiality reasons and company policy.

The bilateral discussions as well as the stakeholder meeting were of little value added given that the stakeholders mostly reiterated the positions expressed when answering the public consultation.

Annex 2: Stakeholder consultation

Introduction

This stakeholder consultation synopsis report provides a summary of the outcomes of the stakeholder consultation activities, which were carried out as part of the evaluation of Directive 2007/59/EC on the certification of train drivers. It provides a basic analysis of the responses of stakeholders groups involved in the consultation process and a summary of the main issues they raised. Following consultation activities were undertaken:

- an open public consultation organised by the Commission services, which was launched on 3 March 2016 and lasted until 6 June 2016;
- bilateral discussions with key stakeholders and discussions at several different events, including a stakeholder meeting on 1 July 2016.

The objectives of the consultation activities were to:

- provide the public and the stakeholders with an opportunity to express their views on the implementation of the Directive as well as to express their opinions on possible and/or desirable changes to the regulatory framework for train drivers certification; and
- gather specialised input (data and factual information, expert views) on the impacts of the Directive.

Consultation activities

Open public consultation (OPC)

The objectives of the OPC were to help identify the problems faced by the sector in applying the provisions of the Directive, obtain their opinion on the appropriateness and impacts of the intervention as well as on the extent to which the objectives have been met, and on possible/desirable changes.

It was comprised of one questionnaire, which was made available online through the Commission's EU Survey facility, 'Your Voice in Europe'. The survey was open to all categories of respondents (individual citizens, representatives of the sector, public authorities and civil society organisations). A total of 72 responses were received: 58 from companies, public authorities, associations and academia, and 14 in personal capacity as shown in the table below.

STAKEHOLDER CATEGORY	NUMBER OF RESPONSES	% OF RESPONSES
INFRASTRUCTURE MANAGERS	2	2.8%
RAILWAY UNDERTAKINGS	22	30.6%
PUBLIC AUTHORITIES	13	18%
RESEARCH/ACADEMIA	1	1.4%
TRAIN DRIVERS' ORGANISATIONS	11	15.3%
CONSULTANCY	1	1.4%
OTHER	8	11%

CONTRIBUTORS IN PERSONAL CAPACITY	NUMBER OF RESPONSES	% OF RESPONSES
INTERESTED CITIZENS	2	2.8%
TRAIN DRIVERS	6	8.3%
RECOGNIZED EXAMINERS	2	2.8%
OTHER	4	5.6%

Notes: "Other" is based on the respondents' choice.

In terms of the geographical coverage, the respondents were based in 20 Member States. The most replies were received from Germany (9), followed by Sweden (7), Austria and Spain (6 contributions each). No contributions were received from Bulgaria, Croatia, Cyprus, Greece, Ireland, Malta, Romania and Slovenia.

The analysis of the responses does not include the answers given by respondents that were not familiar at all with the provisions of Directive 2007/59/EC or answered 'blank' to the respective question, see table below. The respondents who were not familiar at all with the Directive skip the specialised part of the questionnaire. Therefore, the number of answered questionnaires taken into account was 64 (N=64).

FAMILIARITY WITH THE PROVISIONS OF DIRECTIVE 2007/59/EC	NUMBER OF RESPONSES	% OF RESPONSES
VERY FAMILIAR	47	65.3%
FAMILIAR TO A LIMITED EXTENT	13	18%
SUPERFICIALLY FAMILIAR	4	5.6%
NOT FAMILIAR AT ALL	0	0%
NO ANSWER	8	11.1%

Conclusions and limitations

The objectives of the consultation activities were largely achieved. All relevant stakeholder groups within the EU Member States were consulted, and most provided their views on the certification scheme for train drivers.

The value added of the bilateral discussions with key stakeholders and of the stakeholder meeting on 1 July 2016 was very limited, given that the participants mostly reiterated the positions expressed when answering the public consultation.

Although we have requested the stakeholders to provide us with figures quantifying the costs and benefits due to complying with the Directive, only a few examples were provided. This was a result of the:

- absence of reliable figures on costs and benefits
- lack of awareness of the respondents regarding the benefits and costs incurred to their organisation
- confidentiality reasons and company policy.

Results of the open public consultation

General questions

In the opinion of 57 out of 64 respondents, it is important that train drivers can work in different Member States. Further, 58 respondents agree that the **recognition of train driver licences** in other Member States is important, while 52 respondents have the same opinion about the **recognition of complementary certificates**.

The majority of the respondents (39 respectively 43) considers that the Directive solved to a limited extent, **the problem of fragmentation regarding the licences and complementary certificates**. Only 8 respectively 7 respondents answered that the Directive completely solved the fragmentation problem, while a higher number (13 respectively 17) think that the Directive did not solve the fragmentation problem.

On the **requirements for the licence** being or not the right instrument for achieving objectives of implementing common minimum requirements for certification of train drivers, EU-wide interoperability of train drivers and simplifying the training of train drivers, the majority of the respondents (51%) considered that these requirements were to a limited extent the right instrument to achieve the objectives. The majority in the main categories of stakeholders considered that the requirements for the licence were to a limited extent the right instrument for achieving the objectives.

On the **requirements for the complementary certificates** as the right instrument for achieving the objectives: this was, for the majority of the respondents (53%), the right instrument for achieving the objectives, while in view of 26% these requirements were not the right instrument. Regarding the RUs (issuers of complementary certificates), 4 out of 18 saw the requirements for the certificate as not being the right instrument, while in case of train drivers and their organisations equal numbers (2) considered that the requirements were/were not the right instrument for achieving the objectives.

With regard to the **obligations for competent authorities**, 25% of the respondents consider that they were the right instrument to achieve the objectives, and in view of 40%, this was only to a limited extent the case. The majority of the respondents from the public sector (7 out of 12) opined that the obligations for the competent authorities were to a limited extent the right instrument for achieving the objectives, and 5 saw these obligations as the right instrument for achieving the objectives.

In the opinion of 60% of the respondents, the **tasks of the competent authority** could not be fulfilled by another organisation. This is also the opinion of 67% of the contributions from the public sector.

With regard to the **obligations for RUs and IMs**, for the majority of the respondents (64 out of 72), they were partly the right instrument to achieve the objectives. The same applies to the main categories of stakeholders participating in the consultation. Only one RU considered that their obligations, defined in the Directive, are not the right instrument to achieve the objectives. Moreover, in view of 31 out of 64 respondents, the tasks of RUs/IMs could be fulfilled to a limited extent by another organisation, while 23 respondents consider that no other organisation could fulfil the tasks of RUs and IMs.

The **rights and obligations set out in the Directive for train drivers** are in the opinion of 41% of the participants to a limited extent the right instrument to achieve the objectives; a slightly lower percentage (33%) of respondents considered that those rights and obligations were the right instrument for achieving the objectives. The majority of participating train drivers and their organisations (8 out of 14) consider that those rights and obligations are to a limited extent the right instrument to achieve the objectives.

On the **assignment of train drivers to operations in various Member States**, overall, 23 respondents (out of 64) answered that the Directive did not make it easier for employers to assign train drivers to operations in various Member States, while 20 considered that the contribution of the Directive was limited. According to the majority of the participating RUs, the Directive made it easier to operate in different Member States. On the contrary, the majority of train drivers and their organisations (i.e. 9 out of 14) considered that due to the Directive, working in various Member States has not been facilitated.

Obtaining the licence

A vast majority of the respondents (75%) considers the **required minimum age** adequate, while 17% believed it was lower than necessary.

In view of 67% of the respondents, the **required minimum level of basic education** was adequate, while almost equal numbers of respondents considered the required level either too low or too high (14%, respectively 15%).

Almost equal numbers of respondents (29 respectively 27) considered the **required level of basic training** either adequate or lower than necessary.

The prescribed level of **physical fitness** was adequate for 81% of the respondents.

With regard to the **occupational psychological fitness**, the vast majority of the respondents (51 out of 64) considered that the required level was adequate. In case of the **general professional competence**: for 31 respondents the prescribed level was adequate while for 24 it is too low.

No requirements should be repealed in view of 31 out of 64 respondents, while 27 had the opposite opinion. Sixteen out of the 27 respondents have pointed out that the present education requirement in Article 11(1) is no longer relevant since the referred Council Decision is no longer valid.

With regard to **any missing requirements for the licence**, 56% of the respondents considered that this was not the case, while 39% thought that requirements were missing. On the **assignment of train drivers to operations in various Member States**, the

contribution of the requirements on minimum age, basic education and physical fitness was considered very high or at least high by most respondents. With regard to basic training, slightly more respondents assessed the contribution as low/very low than high/very high (29 vs 25). A similar situation concerns the contribution of the general professional experience (22-very/high contribution, 28-low/very low contribution).

For the licence to remain valid, the train driver has to undergo periodic examinations and/or tests of the physical fitness and occupational psychological fitness. Overall, a vast majority of contributors (42 out of 64) considered the **frequency of periodic examinations/tests** as being adequate. Also among the RUs, public sector contributors, train drivers, and their organisations, stakeholders, the majority opined that the frequency was adequate. None of the train drivers or their organisations considered the frequency too high or too low. Further, 50% of the respondents considered that the **content of the periodic examinations/tests** covered all necessary elements, while 34% assessed the coverage as incomplete.

The **frequency of the required periodic examinations/tests** for maintaining the validity of the licence has a high contribution to assigning drivers to operations in various Member States in view of 35 out of 64 contributors. With regard to the content of the periodic examinations/tests, almost equal numbers of respondents considered the contribution either high or low (20 respectively 21).

Obtaining the complementary certificate

In order to obtain a complementary certificate, the applicant has to fulfil a series of requirements regarding linguistic knowledge, professional knowledge, and competence and training on Safety Management Systems (SMS).

The majority of the respondents considered that **language requirements and the training on the SMS** covered all necessary elements (37 respectively 38); however, a large share of contributors (24 out of 64) saw the scope of those requirements as not complete. The requirements on professional knowledge and competence regarding both rolling stock and infrastructure cover all necessary elements in view of the large majority of respondents (47, respectively 44 contributors).

In view of the majority of the respondents (46 out of 64), **none of the provisions regarding the requirements for certificate should be repealed**. Moreover, the **set of requirements for obtaining the certificate** seemed to be complete in view of 52 out of 64 participants.

Mobility between Member States

On the **contribution of the requirements to obtain a complementary certificate to easing the assignment of train drivers to operations in various Member States**: in the opinion of 47 respondents, the linguistic knowledge had a very high or at least high contribution to easing the assignment of train drivers to operations in various Member States. About the same number of respondents (20) assessed the contribution of these requirements as either high/very high or low/very low. The contribution of the training on Safety Management Systems was assessed less positively: 35 respondents considered it non-existent or, at the most, low.

The **frequency of the periodic examinations/tests for the complementary certificate** was considered adequate by the vast majority of the respondents (40 out of 64); the same

applies to the three main categories of respondents (85% of train drivers, 55% of the RUs, 61% of the public administrations).

In view of 36 respondents out of 64, the **minimum frequency of the periodic examinations/tests** had a high or very high contribution to easing the assignment of train drivers to operations in various Member States. Twenty-three respondents rated the contribution of the **content of the periodic examinations/tests** as low or very low.

The level of **linguistic requirements** is perceived by 30 respondents as adequate, while 16 considered it too high and 13 contributors considered it too low. Among those considering the required level too low were 57% of the train drivers and their organisations, while the RUs rated it as either too high (39%) or adequate (50%).

Overall, the **contribution of the Directive to make it easier for train drivers to work in different Member States** was assessed by the majority of the respondents as being limited. This view was shared by the majority of respondents within the main three categories of contributors (62% of public sector respondents, 61% of the RUs and 64% of train drivers and their organisations).

The majority of the respondents rated the **contribution of the various requirements for the licence** to mobility between Member States generally as high or very high.

The respondents assessed the contribution of the **frequency of periodic examinations/tests** mostly as high or very high (41 respondents). Regarding the contribution of the content of the periodic examinations/tests, 42% of the respondents saw it as low/very low, while 38% of the contributors considered it high or very high.

With regard to the **requirements for the complementary certificate**, their contribution to the mobility between Member States was rated as follows:

- linguistic knowledge – 31 respondents rated its contribution as high or very high, 23 rated it as low or very low;
- professional knowledge/competence regarding rolling stock: 24 high or very high contribution, 31 low or very low contribution;
- professional knowledge/competence regarding infrastructure: 24 high or very high contribution, 26 low or very low contribution;
- Training on Safety Management Systems: 23 high or very high contribution, 25 low or very low contribution.

More than half of the respondents (53%) rated the **contribution of the minimum frequency of the periodical examinations/tests** to mobility between Member States high or very high; however, 30% considered the contribution low to non-existent. With regard to the **content of the periodical examinations/tests**, more respondents saw the contribution low or very low (24) than high/very high (22).

Mobility between Railway Undertakings

On the **overall contribution of the Directive to the mobility between RUs**, half of the respondents (i.e. 32) answered that the contribution was limited, while 19 seeing no contribution of the Directive to that mobility. The majority of train drivers and their organisations (8 out of 14) considered that the Directive did not make it easier for them to move from one RU to another. On the other hand, the public administrations and the RUs are much more positive about contribution of the Directive to facilitating the

mobility between RUs: 9 out of 13 public administrations and 14 out of 18 RUs considered that the Directive contributed to a limited extent to that mobility.

The **contribution of the requirements for obtaining the licence to the mobility of train drivers between RUs** was rated by the contributors as follows: the contribution of the requirements on minimum age, basic education, occupational psychological fitness, and physical fitness is rated as high by a large number of respondents (at least 30 respondents). In case of basic training and general professional competence, most respondents rated their contribution as very low (22, respectively 20).

The majority of the respondents (38) rated the **contribution of the requirements for maintaining the validity of the licence to mobility of train drivers between RUs** as high or very high. However, the contribution of the content of periodic examinations/tests was considered by equal numbers of respondents (i.e. 19) either high/very high or low/very low.

In order to obtain a complementary certificate, the applicant has to fulfil a series of requirements. The **contribution of the requirements for the complementary certificate to facilitating the mobility** of train drivers between RUs was rated mainly as either high or very low, except for the linguistic knowledge that was rated as very high or high by most contributors (39 out of 64).

For the complementary certificate to remain valid, the train driver has to fulfil a series of requirements. More than half of the respondents (34 out of 64) rated **the contribution of the minimum frequency for periodic examinations and tests** to the mobility between RUs as high or very high. In case of the **content of the periodic examinations/tests**, almost equal numbers of respondents (17, respectively 18) rated their contribution high or very low. This could be explained by the specific arrangements within the RUs which might not be 100% aligned with the content of the periodic examinations/tests.

EU-added value

The majority of the respondents (38 out of 64) considered that the Directive contributed at least to a limited extent to **maintaining or even raising the safety level** of the railway system. It has to be noted that in view of 22 contributors the Directive did not contribute to maintaining (or raising) the safety level; however, this does not mean that the Directive had a negative impact on safety.

With regard to **additional effects of the Directive**, an equal number of respondents (20) answered that these effects were either only negative or both positive and negative. In view of most of the contributing train drivers and their organisations, the additional effects of the Directive were only negative. Most of the contributing RUs and public authorities (9 respectively 6) considered that the Directive led to both positive and negative additional effects.

The contributors mentioned, as additional positive effects, the increased mobility of train drivers and definition of minimum requirements in the EU.

The additional negative effects consist in a paper-based, bureaucratic system, additional costs for the RUs, as well as undermining the high quality national training programs that existed when the Directive entered into force.

Most respondents (42) considered that a Directive, as **form of intervention**, was either not adequate or adequate to a limited extent to achieve the goals. In view of 29

respondents, a more prescriptive form of intervention (such as a Regulation) would have been more adequate to achieve the objectives.

On the **costs and benefits** of complying with the Directive: A vast majority of respondents (49 out of 64) considered that they or their organisation did not have any benefit from complying with the requirements set in the Directive. For 53 respondents, the costs incurred were not proportionate with the benefits achieved by complying with the Directive.

The majority of the respondents considered that there are **no inconsistencies in the provisions of the Directive**. However, in view of 28 respondents out of 64, there are inconsistencies in the Directive. Furthermore, a large majority of contributors (42 out of 64) responded that there are **unclear provisions in the Directive**, such as the quality, content and minimum training duration related to the licence is not clearly defined. In addition, there is too much freedom for the Member States regarding the frequency of the psychological checks.

Two thirds of the respondents considered that **some provisions of the Directive are more difficult to implement** than other provisions.

Equal numbers of contributors (26) answered that in their opinion the Directive created a **framework for EU-wide acceptance and comparability of procedures and requirements for the licence** either completely or to a limited extent. Only 8 respondents considered that the Directive did not create such framework.

More than a quarter of respondents did not have an opinion on whether the Directive eliminated the **duplication of efforts between Member States regarding the licences respectively the complementary certificates**. Twenty-eight respondents considered that the Directive eliminated the duplication of efforts between the Member States concerning the licence, while in case of the complementary certificates only 12 respondents believed that the Directive eliminated the costs duplication between Member States. A higher number of respondents (15) shared the view that the Directive did not eliminate the duplication of efforts between Member States for complementary certificates, than the number of respondents (8) with the same assessment regarding the licence.

More than one third of respondents did not have an opinion on whether the Directive eliminated the **duplication of costs between Member States regarding the licences respectively the complementary certificates**. Twenty-four respondents considered that the Directive eliminated the duplication of costs between the Member States concerning the licence, while in case of the complementary certificates only 9 respondents believed that the Directive eliminated the costs duplication between Member States.

Other Questions

Article 34 of the Directive foresees the examination of the possibility of **using smartcards combining the licence and certificates**. However, following the cost-benefit analysis hereof prepared by ERA, no further action was taken with regard to the use of smart cards. A large majority of stakeholders (50 out 72) considers that the possibility of using smart cards should be reconsidered. Some of the respondents maintained that the paper version of the certification documents is outdated; using smart cards would ease the monitoring of train drivers as well as updating the complementary certificates in case of acquiring additional competences.

Article 28 of the Directive foresees the possibility of bringing forward a legislative proposal on a **certification system for other crew performing safety-critical tasks**. However, this option was following the report produced by ERA in 2009. Forty-three percent of the respondents to the public consultation considered that it would definitely make sense to have a certification system for other crew performing safety-critical tasks, while 36% opined that such certification scheme would not make sense. The respondents mentioned that for cross-border activities it could be beneficial to have a common level of training for different tasks. Such certification scheme would increase the safety, especially in cross-border activities, due to a common training process. However, such certification scheme would create administrative burden, extra costs and would have no value added, certified staff could ask for higher salaries, and it would be necessary to implement different procedures for certifying staff than the one for train drivers, different registers, etc.

Further to a **single, common operational language** (like for example in aviation), in view of 44% of the respondents, the introduction of such language would not be beneficial due to high costs, problematic cultural acceptance and high costs of staff training. A single, common operational language would be to a limited extent beneficial in the opinion of 30% of the respondents. None of the public administrations responding to the consultation considered that a single, common operational language would be to a full extent beneficial. The majority of train drivers and their organisations considered the introduction of such language as not beneficial, while the RUs did not show any support for it.

Use of consultation results

The results of the open public consultation were mostly used in order to understand to what extent the objectives of the intervention were met. Further, they provide valuable insights in the functioning of the certification scheme from the perspective of the actors involved in the process and help better understand possible shortcomings of the scheme.

It was not possible to get more quantitative information from the stakeholders during the consultation process. However, it was a rich source of information (opinions, views and suggestions), which helped close the Commission's knowledge gap.