

Safety on the Community's railways (Railway Safety Directive)

2006/0272(COD) - 03/03/2008 - Council position

The Council considers that the three legislative proposals on i) recasting the interoperability Directives for conventional and high-speed rail ([COD/2006/0273](#)); ii) amending the Railway Safety Directive and the iii) the European Railway Agency Regulation ([COD/2006/0274](#)), can bring about important improvements to the technical part of the regulatory framework for European railways.

To recall, both Council and Parliament succeeded in reaching an agreement, at first reading on the proposal for a Railway Interoperability Directive so that Council can adopt the proposed act thus amended. However, alignment could not be found on the Railway Safety Directive and the Agency Regulation. As a result, the Council adopted common positions on both proposals, taking due account of the amendments which Parliament adopted at its first reading.

The Council made three main changes to the common position and has made an exemption for Cyprus and Malta. In summary, the three main changes are as follows:

1) Integration of all provisions on authorisation procedures in one single act:

In view of the drive for better regulation and in the interests of simplicity, the common position incorporates all provisions regarding authorisations for placing vehicles in service, into one single legal act. Bearing this in mind, Article 14, the new Article 14 (a) and the new Annexes that amend the Railway Safety Directive, have been transferred to the recasted Railway Interoperability Directive. This initiative has the approval of the European Parliament.

2) Clarification of roles and responsibilities with regard to maintenance:

The Council has put forward a new definition of “keeper” and “entity in charge of maintenance”. These have been done in order to take account of the new Convention concerning International Carriage by Rail (COTIF). In its definition, which is aligned as much as possible to that of COTIF’s, the Council has sought to establish a clear connection between the keeper and its vehicle through the obligation for keepers to register as such in a “National Vehicle Register”. Under the terms of the common position, entities in charge of maintenance must ensure that vehicles are safe to run. Each vehicle, before being placed on the market or used in a network, will require an “entity of maintenance” assigned to it. Further each entity will need to be registered in a National Vehicle Register. In exceptional circumstances only may a National Safety Authority decide to derogate from its obligations to assign an entity in charge of maintenance of vehicles. Any such derogation will need to be published by the authority in its annual report. Through this system the Council is seeking to allow railway undertakings and infrastructure managers to easily identify who is in charge of maintenance for the vehicles they operate.

3) Maintenance certification:

The Council has decided to strengthen provisions concerning “maintenance certification”. It has therefore asked that a maintenance certification system for keepers be adopted, at least one year after the entry into force of the proposal amending the Railway Safety Directive. This change is based on a Recommendation originating from the European Railway Agency. The common position has been framed in such a way that

the certificate will be valid throughout the Community and that it will guarantee the certified entity meeting the maintenance requirements of the Railway Safety Directive for any vehicle of which it is charge.

Entities in charge of maintenance may participate in this certification system on a voluntary basis. With a view to clarifying that no new requirements are introduced for railway undertakings and infrastructure managers, the Council specifies that the safety management system, which railway undertakings and infrastructure managers already need to establish under the current Railway Safety Directive, includes the maintenance system.

The Council's common position thus differs from that of Parliament in two ways. Firstly, where the Council introduces the concept of entity in charge of maintenance, Parliament attributes direct responsibility for the maintenance of a vehicle to the keeper. Secondly, Parliament proposed a mandatory maintenance certification system. The common position, on the other hand, provides for a voluntary system. Council is of the view that mandatory participation in a maintenance system is not always appropriate and could lead to unnecessary administrative costs. Further, attributing responsibility for maintenance to keepers requires specific know-how, which could add an extra burden on the development of economic activities.

4) Exemption of Cyprus and Malta:

The common position provides for the exemption of Cyprus and Malta from the Directive amending the Railway Safety Directive on the grounds that they do not have a railway system.

To conclude, the three legislative proposals that seek to facilitate the movement of railway vehicles across the EU make an important contribution to the further integration of the European railway area. Significant achievement has already been achieved on all three proposals – in particular finding agreement on the Railway Interoperability Directive reached at first reading. This, in the Council's view, lays a solid basis for both co-legislators to find compromise solutions to the proposals during their reading discussions.