

European Railway Agency: new tasks

2006/0274(COD) - 03/03/2008 - Council position

The Council is of the view that the three legislative proposals that seek to integrate the European railways, namely i) recasting the interoperability Directives for conventional and high-speed rail ([COD/2006/0273](#)); ii) amending the Railway Safety Directive ([COD/2006/0272](#)) and iii) amending the European Railway Agency Directive, can bring about important improvements to the EU's railway regulatory framework. The proposal lowers existing barriers to the free circulation of railway vehicles on the European rail network and facilitates the cross-acceptance of railway vehicle authorisations amongst the EU Member States.

To recall, following the first reading of the proposals, both Council and Parliament reached an agreement on the proposal for a Railway Interoperability Directive. They could not, however, align their positions on the proposed Railway Safety Directive and the European Railway Agency Regulation. As a result, the Council adopted common positions on both proposals, whilst taking due account of some amendments which the Parliament adopted following its first reading.

Two key policy issues dominated the debate on reforming the European Railway Agency (the Agency). In preparing its common position, the Council took as a starting point, the text forming the basis of an agreement with Parliament on the Railway Interoperability Directive and the Railway Safety Directive. The Council also made some changes to the Commission proposal with a view to ensuring a better use of the Agency's technical expertise.

1) Classification of national rules:

Although the common position restructures the Commission's initial proposal significantly, it manages to retain the most important provisions. For example, the Council maintained all key provisions concerning the classification of national rules within the context of authorising the placing of railway vehicles in service. Under the terms of the common position, the Agency will be required to create a reference document comparing the national technical and safety rules and to update the reference document on a regular basis. In so doing, the Agency can build up a clearer picture of which national rules are of equivalent value. This should help contribute towards the cross-acceptance of vehicle authorisations amongst the Member States.

Council concurs with Parliament concerning the reduction of national rules on authorising the placing of vehicles in service that are equivalent amongst the Member States. The Council is of the view, however, that the most efficient method will be to ask the Agency to submit a regular update of the reference document rather than to follow Parliamentary suggests to set a single and fixed date (1 January 2010). Similarly, Parliamentary proposals that the Agency give priority to national rules which identify differences regarding safety clearance for infrastructure and rolling stock have not been incorporated in the common position.

2) Main modifications to Commission proposal:

In summary, the main modifications to the Commission's initial proposal, are as follows:

- The Council has agreed to make better use of the Agency's expertise. Firstly, the Agency may be called upon to provide technical opinions in the case of a negative decision by a National Safety

Agency and on the equivalence of national rules for the technical parameters established in the Railway Interoperability Directive. Secondly, the Agency may be requested to deliver an opinion on urgent modifications of Technical Specifications for Interoperability (TSIs).

- The Agency is asked, in the common position, to prepare within 6 months of the Directive entering into force, a report setting out any recommendations on the implementation of a system of voluntary certification of vehicle maintenance as set out in the Railway Safety Directive. The Council expects these recommendations to be consistent with the roles and responsibilities of railway undertakings. At the same time facilitating the safety certification procedure of railway undertakings and avoiding the administrative burden of duplicating controls, inspections and/or audits, must be encouraged. In view of the fact that a mandatory system of certification would increase the administrative burden on industry, as well as imposing additional costs, the Council has decided to reject this Parliamentary proposal.
- The common position lists all of the Agency's tasks as set out in the "Train Drivers Directive". In listing all of these tasks, the Council is seeking to distinguish between tasks concerning train drivers, on the one hand, and tasks concerning other crew member performing safety-critical tasks, on the other. As to the train drivers, the list includes tasks such as preparing a draft for a Community model for the train drivers' licence and ensuring the interoperability of the registers for train drivers' licences. As to the crew member performing safety-critical tasks, the Agency must present a report identifying their profile and tasks. On a final point, staff involved in the operation and maintenance of the rail system, but belonging to either of the two categories mentioned above, the Agency is required to make recommendations suggesting common criteria for defining vocational competences and assessing staff.
- New provisions relating to "registers", state that the Agency needs to draw up common specifications for the newly created register of authorised vehicle types as well as for the infrastructure register. The Agency must also set up and keep the register for vehicle types. This complements a similar Parliamentary proposal.
- The common position specifies conditions under which the Commission may request assistance from the Agency for the implementation of the legislative framework on interoperability and safety.
- A Parliamentary amendment that extends the work contracts of staff, with a view to ensuring the continuity of its operations has been taken on board and included in the common position. However, the Council does limit this more flexible regime to the first ten years of operation given that during this time frame it will be particularly important to retain qualified staff.
- In other changes, the Council: provides that not only national safety agencies but also national authorities may (on certain occasions) appoint Agency representatives; supports the Commission's objective of having notified bodies across the Community which function on the basis of the same criteria; agrees with the Commission that the Agency should be involved in assessing the interoperability aspects of certain requests for Community funding (the Agency must provide an answer within 2 months); and supports the Commission's proposal vis-à-vis the Agency's tasks in relation to ERTMS.

3) Parliamentary amendments:

The amendments not accepted by the Council include those:

- regarding working parties of the Agency;
- entrusting the Agency, as from 2015, with the task of granting authorisations for placing vehicles conforming to TSIs in service. This problem has, however, partially been resolved by adding the principle of mutual recognition of any authorisations. The Commission is invited to draw up a report on the effectiveness of the new procedure;
- amendments on the Agency's Technical Opinions have only partially been incorporated in the Council's common position. The Council has rejected the possibility for individual applicants to

request a Technical Opinion directly from the Agency, as proposed by Parliament. In addition, the Council agrees to provisions that require the Agency to set up a procedure for managing requests for changes to ERTMS specifications.

To conclude, the Council recognises that all three legislative initiatives are an important step in the integration of the European railway area. Significant progress has already been achieved by Council and Parliament – for example finding agreement at first reading on the Railway Interoperability Directive. This agreement lays a sound foundation for both co-legislators to find compromise solutions on the proposals amending the Agency Regulation and the Railway Safety Directive during second reading.