

Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 15/12/2015 - Council position

The Council adopted its position in first reading with a view to the adoption of the directive of the European Parliament and of the Council on railway safety (Recast)

The proposal is part of the fourth railway package, which consists of six legislative proposals aimed at removing the remaining barriers to the completion of the Single European Railway Area. It aims to establish a **common approach to safety** in order to increase economies of scale for railway undertakings active across the Union, as well as to **simplify and reform the administrative procedures for issuing safety certificates**, thereby removing the fragmentation of rules across the Union.

More specifically, the objective of the safety Directive is to:

- amend the existing regulatory framework in order to put in place the migration towards an **EU single safety certificate** for railway undertakings and infrastructure managers, to be issued by the European Railway Agency;
- **clarify the roles and responsibilities of the various actors of the rail system** in order to ensure adequate risk control at all levels.

The main points in the Council position are as follows:

Issuing of safety certificates: the Council position introduces more flexibility in the respective responsibilities of the national safety authorities and the Agency in the safety certification process, with **additional safeguards granted to the national safety authorities** in specific circumstances.

The text sets up a **dual system in relation to the issuing of safety certifications**, where the Agency acts as a one-stop-shop through the setting-up of a new information and communications system for issuing safety certificates to railway undertakings involved in cross-border traffic, with national safety authorities keeping an important role in carrying out the assessments necessary to the issuing of certifications.

For railway undertakings involved in national transport only, a choice exists to submit a request for certification either to the Agency or to the national safety authority. However, in both cases, the procedure and the decision criteria remain the same.

Roles and responsibilities of the different actors in the safety chain: the text clarifies further the roles and responsibilities of the different actors of the rail system to improve the safety level, through the strengthening of the provisions on the respective role of the actors of the rail system in developing and improving railway safety.

Infrastructure managers and railway undertakings should have a major responsibility for the safe operation of the train and they should be obliged to establish safety management systems.

Cooperation agreements between the Agency and the national safety authorities: the Council proposes to put in place a new mechanism concerning the conclusion of cooperation agreements between the Agency and national safety authorities to facilitate the practical implementation of the new certification system.

According to this mechanism, the cooperation agreements between the Agency and the national safety authorities may include specific cooperation arrangements in cases of networks requiring specific

expertise due to geographical or historical reasons. Where such networks are isolated from the rest of the Union's rail system, such cooperation arrangements may include the possibility for contracting tasks to the relevant national safety authorities when it is necessary to ensure efficient and proportionate allocation of certification.

National rules in the field of safety: the Council's position proposes the possibility of Member States: (i) maintaining national safety rules already notified under Directive 2004/49/EC in a number of cases; (ii) adopting new national rules in the field of safety.

The text clarifies the procedures to be applied for the notification of national rules, as well as on the assessment to be made by the Agency (up to a period of 8 months). In addition, it provides that, when the Agency does not react within the required time limits, Member States will adopt the new national rules or the existing ones will remain valid.

Supervision activities of the national safety authorities: the Council's position aims at guaranteeing that the new safety certification procedure **will not undermine the role of the national safety authorities** in their supervision tasks. It also provides that, if during supervision, a national safety authority identifies a serious safety risk, it may apply **temporary safety measures**, on which the national authority would have the final say in case of disagreement with the Agency.

Liability of the Agency: the Council's position aims to clarify the accountability of the Agency in the context of issuing safety certificates. A new recital recalls the legal framework of the Agency's liability, and underlines the importance of a full cooperation with Member States' authorities in case of railway accidents. Furthermore, the text provides that the Agency is fully responsible for the single safety certificate it issued.

Appeal and arbitration procedure: the Council's text reflects the possibility given to the applicant of referring the matter to a national court in case of disagreement with the measure taken by the national safety authority. It also provides for an appeal procedure in case of a disagreement between the national safety authority and the Agency.

Transitional provisions: Member States may continue to apply the existing provisions of Directive 2004/49/EC until **three years after the date of entry into force of the Directive**, and Member States may extend this period for an additional year.

Safety culture and occurrence reporting: the Council's text covers the promotion of a culture of mutual trust, confidence and learning in which the staff of railway undertakings and infrastructure managers are encouraged to contribute to the development of safety. In addition, it provides for the possibility of **reporting confidentially** safety risks that are ignored. The Agency will be able to establish a tool that facilitates this exchange of information among the relevant actors.

Delegated acts/implementing acts: the Council's text provides that the common safety targets (CSTs) and common safety methods (CSMs) are adopted as an implementing act through the examination procedure, with the Committee of Member States being kept informed on the Agency's works in a systematic and regular manner. Once the recommendation is delivered by the Agency, the Commission adopts the CSTs and CSMs as delegated acts.