

Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 26/01/2016 - Commission communication on Council's position

The Commission presented a communication concerning the position of the Council on the adoption of a Directive of the European Parliament and of the Council on railway safety (Recast).

The Commission considered that the political agreement adopted by the Transport Council on 10 December 2015 **supports the main objectives of the Commission proposal** to simplify the process for granting safety certificates. However, the political agreement **differs from the Commission proposal in some respects**, namely it gives railway undertakings operating in only one Member State the choice to apply for a safety certificate to either the Agency or the domestic national safety authorities (NSAs).

However, in both cases the procedure and the decision criteria would remain the same

In addition, the Council position:

- clarifies the role and responsibilities of the 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 that they should be obliged to establish safety management systems;
- clarifies that the Agency is accountable in the context of issuing safety certificates and that it is fully responsible for the single safety certificate it issued;
- provides for an appeal procedure for applicants reflecting the possibility given to refer the matter to a national court in case of disagreement with the decision taken by the Agency or by a NSA;
- states in more detail how the Agency and the NSAs are to cooperate when issuing single safety certificates;
- provides details on the supervision activities of the NSAs and how they relate to certification;
- provides implementing powers to the Commission for establishing the reporting structure for accident and incident investigation reports.

The Council position also includes new provisions addressing specific cases and the concerns of some Member States.

While the Commission considered the above-mentioned points as acceptable, **it regretted the following aspects** of the Council position:

- **the transposition time-limit** increased from 2 to 3 years;
- all modifications introduced in relation to the **delegated and implementing powers**, including the systematic recourse to the non-opinion clause, which is contrary to the letter and to the spirit of Article 5§4 second subparagraph, point b) of Regulation (EU) No 182/2011 on comitology;
- the suppression of the obligation of the Member State to supply to the Commission information which is clear and precise as regards the **transposition of Directives** in national law, as acknowledged by the European Parliament, the Council and the Commission in their Joint Political Declaration of 27 October 2011 on explanatory documents.

In a spirit of compromise, the Commission **accepted the position adopted by the Council** thus allowing the European Parliament to adopt the final text in a second reading, together with the other five proposals under the Fourth Railway Package.

Indeed, the Commission considers that **simultaneously adopting both the market and technical pillars** would maximise the benefits in terms of the quality of service, efficiency and the competitiveness of the rail industry.