

# Railway transport: certification of train crews and drivers. 3rd package

2004/0048(COD) - 14/09/2006 - Council position

The Council accepted in full 3 amendments made by the European Parliament. The common position is similar to a further 29 amendments or close to the spirit in which they were drafted. The common position lays down the conditions and procedures for the certification of train drivers operating locomotives and trains on the railway system in the Community. It specifies the tasks for which the competent authorities of the Member States, the train drivers and other stakeholders in the sector, in particular the railway undertakings, infrastructure managers and training centres, are responsible. Moreover, the proposal sets minimum requirements for physical and mental fitness, obligatory periodic checks and the description of skills a driver must have. The draft Directive will apply to train drivers only. Other train crew on board locomotives and trains who participate directly or indirectly in driving and/or in other safety critical tasks will not be covered by its provisions. It also contains a specific procedure for temporary exemption from its scope of domestic drivers who only circulate within the borders of the Member States.

The key points are as follows:

**Exclusion of other staff:** the scope of the Commission's proposal covered the certification of drivers and of other train crew on board locomotives and trains who participate directly or indirectly in driving and/or in other safety critical tasks. The European Parliament's first reading suggested the inclusion of train crews within the scope of the draft Directive and the addition of a mechanism for certification.

However, in its Common Position, the Council limits the scope of the draft Directive to train drivers. While not opposing the principle of certification of "other crew", the Council considers such an extended scope as premature as it is not known which personnel will fall into such a category, nor is it known which tasks they shall perform. Consequently, a provision has been added to the draft

Directive giving the European Railway Agency the task of drawing up a report identifying the profile and tasks of such other staff. This report shall be presented two years after the entry into force of the Directive. The Council has also included a special provision safeguarding the free circulation of freight trains throughout the territory of the EU;

**Certification of "domestic drivers":** in accordance with the Commission's proposal, the Council decided to apply the provisions of this draft Directive to all train drivers within the Community. This implies that domestic drivers who only circulate within the borders of a Member State are also included within its scope. However, the Council decided that a Member State may request from the Commission that the European Railway Agency carry out a cost / benefit analysis of the application of the provisions in the Directive to train drivers operating exclusively on the territory of that Member State. If this analysis shows that the costs of the application of the provisions contained in the Directive to such train drivers outweigh the benefits, the Commission shall adopt a decision within 6 months following the submission of the results of this cost / benefit analysis. The decision may provide that the Directive does not have to be applied to domestic train drivers for a period of up to 10 years on the territory of the Member State concerned. The European Parliament shares Council's views in that respect and adopted a similar amendment.

**Gradual phasing in:** the Commission suggests a phasing-in period in three stages, spread over the years 2006 to 2015. Parliament followed the Commission's approach, but decided to advance the dates by one year. The Council follows the Commission's three step approach in principle, but does not tie the

individual stages to fixed dates. The phasing-in (the delivery of "new" licences and/or certificates in conformity with this Directive), which the Council adopted, starts from the date on which the necessary national registers will have been set up:

- § Phase 1 - after 1 year: application to new drivers - involved in cross-border services, cabotage or freight services in another Member State, or working in more than one Member State - and to drivers that already worked on those services, but who require a new licence or certificate;
- § Phase 2 - after 3 years: application to all drivers who need a new licence or certificate;
- § Phase 3 - after 8 years: application to all drivers.

A flanking provision ensures that a driver may continue driving on the basis of his existing entitlements, until the provisions of paragraph 34.2 a), b) or c) apply.