

Basic information	
2002/0022(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Community's railways: safety, licensing, levying of charges, certification. 2nd package Amending Directive 95/18/EC 1993/0488(SYN) Amending Directive 2001/14/EC 1998/0267(COD) Repealed by 2013/0016(COD) Amended by 2006/0272(COD) Subject 3.20.02 Rail transport: passengers and freight 3.20.02.01 Railway safety	

Key players			
European Parliament	Committee responsible		Rapporteur
	DELE EP Delegation to Conciliation Committee		STERCKX Dirk (ELDR) 13/11/2003
	Former committee responsible		Former rapporteur
	RETT Regional Policy, Transport and Tourism		STERCKX Dirk (ELDR) 21/02/2002
	RETT Regional Policy, Transport and Tourism		STERCKX Dirk (ELDR) 21/02/2002
	Former committee for opinion		Former rapporteur for opinion
	JURI Legal Affairs and Internal Market		The committee decided not to give an opinion.
Council of the European Union	Council configuration		Meetings
	Transport, Telecommunications and Energy		2472
	Transport, Telecommunications and Energy		2452
	Transport, Telecommunications and Energy		2420
	Transport, Telecommunications and Energy		2499
	Agriculture and Fisheries		2578
	Agriculture and Fisheries		2516
	Environment		2556

European Commission	Commission DG	Commissioner
	Energy and Transport	

Key events			
Date	Event	Reference	Summary
23/01/2002	Legislative proposal published	COM(2002)0021 	Summary
27/02/2002	Committee referral announced in Parliament, 1st reading		
25/03/2002	Debate in Council		
03/10/2002	Debate in Council		
27/11/2002	Vote in committee, 1st reading		Summary
27/11/2002	Committee report tabled for plenary, 1st reading	A5-0424/2002	
05/12/2002	Debate in Council		
14/01/2003	Decision by Parliament, 1st reading	T5-0005/2003	Summary
14/01/2003	Debate in Parliament		
25/06/2003	Council position published	08557/2/2003	Summary
03/07/2003	Committee referral announced in Parliament, 2nd reading		
01/10/2003	Vote in committee, 2nd reading		Summary
01/10/2003	Committee recommendation tabled for plenary, 2nd reading	A5-0325/2003	
21/10/2003	Debate in Parliament		
23/10/2003	Decision by Parliament, 2nd reading	T5-0454/2003	Summary
22/12/2003	Parliament's amendments rejected by Council		Summary
16/03/2004	Formal meeting of Conciliation Committee		
16/03/2004	Final decision by Conciliation Committee		Summary
16/03/2004	Report tabled for plenary, 3rd reading	A5-0245/2004	
23/03/2004	Joint text approved by Conciliation Committee co-chairs	3638/2004	
21/04/2004	Debate in Parliament		
22/04/2004	Decision by Parliament, 3rd reading	T5-0356/2004	Summary
26/04/2004	Decision by Council, 3rd reading		
29/04/2004	End of procedure in Parliament		
30/04/2004	Final act signed		
30/04/2004	Final act published in Official Journal		

Technical information

Procedure reference	2002/0022(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 95/18/EC 1993/0488(SYN) Amending Directive 2001/14/EC 1998/0267(COD) Repealed by 2013/0016(COD) Amended by 2006/0272(COD)
Legal basis	EC Treaty (after Amsterdam) EC 071-p1
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/20326

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0424/2002	27/11/2002	
Text adopted by Parliament, 1st reading/single reading		T5-0005/2003 OJ C 038 12.02.2004, p. 0016-0092 E	14/01/2003	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0325/2003	01/10/2003	
Text adopted by Parliament, 2nd reading		T5-0454/2003 OJ C 082 01.04.2004, p. 0320-0506 E	23/10/2003	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0245/2004	16/03/2004	
Text adopted by Parliament, 3rd reading		T5-0356/2004 OJ C 104 30.04.2004, p. 0743-0948 E	22/04/2004	Summary
Council of the EU				
Document type	Reference		Date	Summary
Council statement on its position	10587/1/2003		20/06/2003	
Council statement on its position	10587/2003		20/06/2003	
Council position	08557/2/2003 OJ C 270 11.11.2003, p. 0025-0047 E		25/06/2003	Summary
Council statement on its position	10840/2003		25/06/2003	
European Commission				
Document type	Reference		Date	Summary
Legislative proposal	COM(2002)0021 		23/01/2002	Summary

	OJ C 126 28.05.2002, p. 0332 E		
Commission communication on Council's position	SEC(2003)0754 	30/06/2003	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2003)0719 	26/11/2003	Summary
Follow-up document	COM(2009)0464 	08/09/2009	Summary
Follow-up document	SEC(2009)1157 	08/09/2009	
Follow-up document	COM(2014)0740 	17/12/2014	Summary
Follow-up document	SWD(2014)0355 	17/12/2014	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1028/2002 OJ C 061 14.03.2003, p. 0131	18/09/2002	
CofR	Committee of the Regions: opinion	CDR0097/2002	10/10/2002	
EESC	Economic and Social Committee: opinion, report	CES0918/2003	16/07/2003	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3638/2004	23/03/2004	

Additional information

Source	Document	Date
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

[Directive 2004/0049](#)
[OJ L 164 30.04.2004, p. 0044](#)

[Corrigendum to final act 32004L0049R\(01\)](#)
[OJ L 220 21.06.2004, p. 0016](#)

[Summary](#)

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 29/04/2004 - Corrigendum to final act

PURPOSE: to accelerate the integration of the European Rail freight market.

LEGISLATIVE ACT: Directive 2004/49/EC of the European Parliament and of the Council on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive). (Corrigendum to the Regulation published in OJ L164 of 30 April 2004).

CONTENT: this Directive has been adopted as part of the second railway package which was agreed upon in conciliation. The Second Railway Package will help to accelerate the integration of the market by removing important obstacles to cross-border services. It will guarantee a high level of safety for railway operation and will contribute to reducing costs and facilitating operations through a greater harmonisation of technical standards in the railway sector.

This Directive concerns the definition of the essential features of safety systems for infrastructure managers and railway undertakings. The aim is to develop a common approach to safety and establish a common system for the issue, content and validity of safety certificates. Finally, as in other sectors, the principle of independent technical investigation in the event of accidents is to be introduced.

The purpose of this Directive is to ensure the development and improvement of safety on the Community's railways and improved access to the market for rail transport services by:

- harmonising the regulatory structure in the Member States;
- defining responsibilities between the actors;
- developing common safety targets and common safety methods with a view to greater harmonisation of national rules;
- requiring the establishment, in every Member State, of a safety authority and an accident and incident investigating body;
- defining common principles for the management, regulation and supervision of railway safety.

This Directive applies to the railway system in the Member States, which may be broken down into subsystems for structural and operational areas. It covers safety requirements on the system as a whole, including the safe management of infrastructure and of traffic operation and the interaction between railway undertakings and infrastructure managers.

The Common Safety Targets shall define the safety levels that must at least be reached by different parts of the railway system and by the system as a whole in each Member State, expressed in risk acceptance criteria for:

- individual risks relating to passengers, staff including the staff of contractors, level crossing users and others, and, without prejudice to existing national and international liability rules, individual risks relating to unauthorised persons on railway premises;
- societal risks.

In application of this Directive, Member States shall establish binding national safety rules and shall ensure that they are published and made available to all infrastructure managers, railway undertakings, applicants for a safety certificate and applicants for a safety authorisation in clear language that can be understood by the parties concerned.

The Commission shall immediately inform the Member State concerned, which shall suspend the adoption, entry into force or implementation of the rule until a Decision is adopted, within a period of six months.

Each year all infrastructure managers and railway undertakings shall submit to the safety authority before 30 June an annual safety report concerning the preceding calendar year. The safety report shall contain: information on how the organisation's corporate safety targets are met and the results of safety plans; the development of national safety indicators, and of the CSIs laid down in Annex I, as far as it is relevant to the reporting organisation; the results of internal safety auditing; observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the safety authority.

Each Member State shall establish a safety authority. This authority may be the Ministry responsible for transport matters and shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant and procurement entity. The safety authority shall carry out its tasks in an open, non-discriminatory and transparent way. In particular it shall allow all parties to be heard and give reasons for its decisions.

On the issue of investigations, Member States shall ensure that an investigation is carried out by the investigating body after serious accidents on the railway system, the objective of which is possible improvement of railway safety and the prevention of accidents.

In addition to serious accidents, the investigating body may investigate those accidents and incidents which under slightly different conditions might have led to serious accidents, including technical failures of the structural subsystems or of interoperability constituents of the trans-European high-speed or conventional rail systems.

Member States shall define, in the framework of their respective legal system, the legal status of the investigation that will enable the investigators-in-charge to carry out their task in the most efficient way and within the shortest time.

Each Member State shall ensure that investigations of accidents and incidents are conducted by a permanent body, which shall comprise at least one investigator able to perform the function of investigator-in-charge in the event of an accident or incident. This body shall be independent in its organisation, legal structure and decision-making from any infrastructure manager, railway undertaking, charging body, allocation body and notified body, and from any party whose interests could conflict with the tasks entrusted to the investigating body. It shall furthermore be functionally independent from the safety authority and from any regulator of railways. Member States shall make provision that railway undertakings, infrastructure

managers and, where appropriate, the safety authority, are obliged immediately to report accidents and incidents to the investigating body. The investigating body shall be able to respond to such reports and make the necessary arrangements to start the investigation no later than one week after receipt of the report concerning the accident or incident.

ENTRY INTO FORCE: 30/04/2004.

IMPLEMENTATION: 30/04/2006.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 17/12/2014 - Follow-up document

The Commission presented a Communication on a progress report on the implementation of Directive 2004/49/EC of the European Parliament and the Council on railway safety. This Communication sets out the progress that has been made since the Commission adopted its second report in September 2009.

Developments in the legal framework: in the course of the last five years, secondary legislation in the railway safety sector has been developed and the **implementing acts** required by the Railway Safety Directive have entered into force. The European Railway Agency (ERA) has made a major contribution in drafting legislation and providing the Commission with its recommendations.

Common safety indicators, methods and targets have been developed. The national safety authorities are now able to issue safety certificates /authorisations and perform supervision according to a harmonised methodology. A harmonised system has been established for the **certification of entities in charge of maintenance for freight wagons**. The overall safety legislative framework is therefore operational.

Some issues, however, remain problematic:

- **Transposition of the Directive:** several Member States have transposed the provisions of the Railway Safety Directive incorrectly or unclearly. This could lead to inconsistent application of safety requirements across the European rail system and unequal conditions for railway undertakings.

At present, there are still six procedures at EU-Pilot stage and 14 infringement cases ongoing. Following these procedures, the Member States concerned are expected to adapt their national legislations so they are compliant with the provisions of the Railway Safety Directive.

- **National safety rules (NSRs):** because of the lack of transparency they engender, national safety rules (NSRs) are one of the major obstacles to the development of an internal market for rail. Although introduced for legitimate reasons, most NSRs are a legacy of old regulatory arrangements and are **redundant** in the safety system established by the Railway Safety Directive. Member States are expected to withdraw obsolete rules accordingly. A specific Task Force on National Safety Rules (2011-12) was set up to clarify some areas of uncertainty about NSRs and foster best practices.

New NSRs should be **limited in scope** and be no more prescriptive than is necessary to meet the safety objectives. Moreover, the national safety authorities should abstain from imposing prescriptive safety rules and rather oblige infrastructure managers and railway undertakings **fully to shoulder their responsibilities** for the safety of the system.

- **Railway safety performance:** over the last six years available railway safety has continued to improve across the EU, **with accident figures falling considerably** and casualty numbers seeing slight reductions.

More than 2 000 significant accidents occur each year on the Member States' railways. Accidents to persons caused by rolling stock in motion and level-crossing accidents constitute more than three quarters of all railway accidents, excluding suicides. In these accidents, around 1 200 people are killed each year.

According to the report, safety performance is in general **satisfactory** and better than that of the other land transport modes, but it **varies widely** across Member States, with **possible deterioration** identified in a few. These Member States will receive particular attention from the Commission and ERA and are expected to send the Commission an explanation of the likely causes of the results.

In the coming years, with some Member States coming under greater scrutiny, more balanced results can be expected, with an overall rise in safety levels.

Also, recent Commission initiatives such as **the technical pillar of the 4th Railway Package** and the development of a Platform for Infrastructure Managers in Europe (**PRIME**) have real potential to bring further safety improvements.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 23/01/2002 - Legislative proposal

PURPOSE : to establish a common regulatory framework for railway safety in Europe and thereby facilitate interoperability on the European rail system.

PROPOSED ACT : Directive of the European Parliament and of the Council.

CONTEXT : this proposal is part of a package to revitalise the Community railway system by creating an integrated European railway system. The directive aims at completing the regulatory structure for a single European rail system and is linked to other proposals in this same package, in particular the proposal to amend the directives on interoperability and the proposal to create a European Rail Agency. It applies a gradual approach to harmonisation and the development of common principles, taking into account the great differences that exist between the Member States. The other measures in the package relate to interoperability, the establishment of a European Railway Agency, and the integration of the rail freight market.

CONTENT : [The proposal on the regulation of safety and investigation of accidents and incidents on the Community's railways addresses four main problem areas related to the development of safe railways in Europe: harmonisation of the safety regulatory structure and the content of safety rules; remaining obstacles to further market opening; the provision of transparency and information on safety; and investigation of serious accidents and incidents.](#)

The purpose of this Directive is to ensure the development and improvement of safety on the Community's railways by:

- harmonising the regulatory structure in the Member States,
- defining responsibilities between the actors,
- developing common safety targets and common safety methods,
- requiring the establishment, in every Member State, of national safety authorities and independent national bodies for accident investigation,
- defining common principles for the management, regulation and supervision of railway safety.

The proposal also establishes a clear procedure for granting safety certificates. The safety certificate as outlined in the current directives consists of different parts: certification of the railway undertakings internal organisation; its commitment to adhere to national rules for the operation; the certification of its rolling stock; and the certification of the staff used in the operation. All railway undertakings must possess a safety certificate before using the European network. The concept of different national safety certificates is, however, still an impediment to the development of a single European rail system. Ultimately there should be one single Community certificate subject to recognition by all Member States. The directive imposes on the Agency an obligation to develop a migration strategy to reach this goal.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 22/04/2004 - Text adopted by Parliament, 3rd reading

The European Parliament approved the agreements in conciliation on the second rail package. (Please refer to the previous summary).

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 22/12/2003

The Council did not approve the European Parliament's second reading amendments regarding the four proposals (3 Directives and 1 Regulation) on the Community's railways. Consequently the Conciliation Committee is convened in accordance with Article 251(3) of the TEC.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 30/06/2003

The Commission supports the texts of the common position. However, as regards the Agency, the Commission would like to draw attention to the forthcoming adoption of the standard provisions for all agencies following the entry into force of the new Financial Regulation. The Commission entered the following statements in the minutes of the Transport Council meeting of 28 March 2003: - The Commission intends to present by the end of 2003 to the European Parliament and the Council a proposal relating to the introduction of a European Driving Licence for train drivers. Besides, the Commission fully supports and encourages the work in progress in the framework of the European Social Dialogue by the social partners, in accordance with Article 139 of the Treaty, concerning the harmonisation of driving times and rest periods for train drivers and staff accompanying trains. - The Commission declares that the final budgetary needs for the European Railway Agency depend on a clear agreement on the competencies of this Agency between the Council and the European Parliament. These needs, of which a first assessment has been made in the financial statement attached to the legislative proposal, will have to be translated in the annual budgetary requests tabled by the Commission to the council and the Parliament acting as the budgetary authority. A precise estimate of these needs for 2004-2006 can only be made once the codecision procedure has been completed. - The arrangements laid down in paragraphs 4 and 5 of Article 8 of the Directive on safety do not constitute a system of prior authorisation.

Community's railways: safety, licensing, levying of charges, certification.

2nd package

2002/0022(COD) - 29/04/2004

PURPOSE : to accelerate the integration of the European Rail freight market.

LEGISLATIVE ACT : Directive 2004/49/EC of the European Parliament and of the Council on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive). (Corrigendum to the Regulation published in OJ L164 of 30 April 2004).

CONTENT : this Directive has been adopted as part of the second railway package which was agreed upon in conciliation. The Second Railway Package will help to accelerate the integration of the market by removing important obstacles to cross-border services. It will guarantee a high level of safety for railway operation and will contribute to reducing costs and facilitating operations through a greater harmonisation of technical standards in the railway sector.

This Directive concerns the definition of the essential features of safety systems for infrastructure managers and railway undertakings. The aim is to develop a common approach to safety and establish a common system for the issue, content and validity of safety certificates. Finally, as in other sectors, the principle of independent technical investigation in the event of accidents is to be introduced.

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- requiring the establishment, in every Member State, of a safety authority and an accident and incident investigating body;
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The Common Safety Targets shall define the safety levels that must at least be reached by different parts of the railway system and by the system as a whole in each Member State, expressed in risk acceptance criteria for:

- individual risks relating to passengers, staff including the staff of contractors, level crossing users and others, and, without prejudice to existing national and international liability rules, individual risks relating to unauthorised persons on railway premises;
- societal risks.

In application of this Directive, Member States shall establish binding national safety rules and shall ensure that they are published and made available to all infrastructure managers, railway undertakings, applicants for a safety certificate and applicants for a safety authorisation in clear language that can be understood by the parties concerned.

The Commission shall immediately inform the Member State concerned, which shall suspend the adoption, entry into force or implementation of the rule until a Decision is adopted, within a period of six months.

Each year all infrastructure managers and railway undertakings shall submit to the safety authority before 30 June an annual safety report concerning the preceding calendar year. The safety report shall contain: information on how the organisation's corporate safety targets are met and the results of safety plans; the development of national safety indicators, and of the CSIs laid down in Annex I, as far as it is relevant to the reporting organisation; the results of internal safety auditing; observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the safety authority.

Each Member State shall establish a safety authority. This authority may be the Ministry responsible for transport matters and shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant and procurement entity. The safety authority shall carry out its tasks in an open, non-discriminatory and transparent way. In particular it shall allow all parties to be heard and give reasons for its decisions.

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In addition to serious accidents, the investigating body may investigate those accidents and incidents which under slightly different conditions might have led to serious accidents, including technical failures of the structural subsystems or of interoperability constituents of the trans-European high-speed or conventional rail systems.

Member States shall define, in the framework of their respective legal system, the legal status of the investigation that will enable the investigators-in-charge to carry out their task in the most efficient way and within the shortest time.

Each Member State shall ensure that investigations of accidents and incidents are conducted by a permanent body, which shall comprise at least one investigator able to perform the function of investigator-in-charge in the event of an accident or incident. This body shall be independent in its organisation, legal structure and decision-making from any infrastructure manager, railway undertaking, charging body, allocation body and notified body, and from any party whose interests could conflict with the tasks entrusted to the investigating body. It shall furthermore be functionally

independent from the safety authority and from any regulator of railways. Member States shall make provision that railway undertakings, infrastructure managers and, where appropriate, the safety authority, are obliged immediately to report accidents and incidents to the investigating body. The investigating body shall be able to respond to such reports and make the necessary arrangements to start the investigation no later than one week after receipt of the report concerning the accident or incident.

ENTRY INTO FORCE : 30/04/2004.

IMPLEMENTATION : 30/04/2006.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 14/01/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Dirk STERCKX (ELDR, B) and made several amendments to the Commission's proposal. (Please refer to the document dated 27/11/02.) In addition to the points in that summary, Parliament made the following amendments: - the opinion of infrastructure managers and network owners and owners should be sought with respect to all factors relating to certification (certification of rolling stock and, in particular, the authorisation to place in operation.) All the corresponding information should be made available to infrastructure managers; - the current situation, in which national safety rules continue to apply, should be regarded as a transitional stage, leading ultimately to a situation where only European rules will apply; - additional definitions of "accident" and "safety"; - the CST and the CSM will be based on an examination of existing targets and methods in the Member States and will take account of the estimated costs and benefits. The possible impact on TSI for the subsystems will be analysed, and the CST and the CSM will contain the necessary proposals for amendments to the TSI; - a reasonable and appropriate period for examining certification applications will be set by the safety authority on the basis of Agency proposals. The Agency will ensure that the safety authority does not make use of examination periods as a delaying mechanism; - Member States must ensure that the initial and continuing training obligations for train drivers and train staff performing vital safety tasks will not lead to distortions in competition; - Member States must ensure that train drivers, staff accompanying trains and staff performing vital safety tasks have an adequate command of the codes and language necessary for operational communications on the routes operated and in connection with the procedures used; - there are several additional subclauses clarifying access to training facilities.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 23/10/2003 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution drafted by Dirk STERCKX (ELDR, Belgium), reinstating a number of amendments made at first reading. The key amendments are as follows: - the introduction of new national rules should be kept to a minimum; - Member States must ensure that measures to develop and improve rail safety take account of the need for a system-based approach; - manufacturers, maintenance suppliers, wagon keepers and service providers have a responsibility to ensure that stock and services comply with specified requirements; - there are shorter deadlines for the introduction of common safety targets and methods; - the Agency must make recommendations regarding the development of a single standard form for the publication of safety rules and establishing language arrangements in order to make the relevant information more easily accessible to users; - the Commission must monitor the introduction of new national rules by Member States; - a summary of the application guidance document must be provided in at least English French and German; - staff performing vital safety tasks must have access to training facilities; - Certificates issued to train drivers, staff accompanying trains and staff performing vital safety tasks must be treated as valid for the rail network for which they were originally granted, irrespective of the railway undertaking for which the certified member of staff works.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 26/11/2003 - Commission opinion on Parliament's position at 2nd reading

The Commission accepts the following amendments, those which: - are designed to clarify certain provisions of the text or of its objectives and of its scope in relation to other Community texts that already exist or are in preparation; - are designed to improve the transparency of procedures and the accessibility of the rules. The proposed solution regarding the price to be paid for access to the training facilities is satisfactory; - concern statistics on accidents is acceptable as it ensures greater clarity. On the other hand, the Commission is unable to accept a certain amendment since it is a text of an explanatory nature on the scope of the directive, which would be better suited to the recitals, where it already figures. Nor is it possible to incorporate amendments concerning items covered in other parts of the text or in existing Community texts, or items which will be taken into account in the draft directive on licences for train drivers. The Commission cannot accept the amendments which are designed to reduce systematically the deadlines for drafting texts. These deadlines had already been considerably shortened by the Council and it is important to set a realistic calendar, adapted to the budgetary possibilities that will be decided for the Agency, which does not overload the Agency to the point of dooming it to failure from the outset.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 08/09/2009

This progress report on the implementation of the Railway Safety Directive and of the Railway interoperability Directives describes the stage reached so far in implementing the Railway Safety Directive and in achieving interoperability of the European rail system since the first report adopted by the Commission in November 2006 (see [COM\(2006\)0660](#)). It responds to Article 31 of the [Railway Safety Directive](#), Article 24 of the [high-speed Interoperability Directive](#) and Article 28 of the [conventional rail Interoperability Directive](#).

Moreover, it builds on the findings of the first biennial report on the development of railway safety in the European Community issued by the European Railway Agency in 2008.

To prepare for this report, the European Commission commissioned a study analysing the degree of implementation of rail interoperability and safety legislation and progress in the field, and carried out a public consultation. The results of the consultation are summarised in the annex to this report.

It should be noted that recent amendments to the legal framework for railway safety and interoperability have not been considered in this report as they are still being transposed at national level (see [COD/2006/0273](#) et [COD/2006/0272](#)).

The main findings are as follows:

- **Transposition by Member States:** all Member States have notified the Commission of their national measures implementing the Railway Safety Directive, except for Luxembourg, against which infringement proceedings are still open. However, in several cases transposition has been delayed and did not meet the legal deadline specified in the Directive (30 April 2006). The next step is to check that all provisions of the Directive have been correctly implemented; this includes conformity checks and detailed analyses to verify, for example, the capacity of the national bodies to perform the tasks required by the Directives. These analyses are still in hand and it is therefore too early to draw final conclusions on this issue. However, some initial results are available on the notification of national safety rules and the setting up of national bodies.
- **National safety rules and notification:** almost 5000 national safety rules have been notified. On request of the Commission the Agency has examined these notifications and recommended asking for clarification or renotification of national safety rules by most Member States. As for the question of publishing the national safety rules, in 2009 the Agency is expected to propose ways to improve access.
- **Setting up of national authorities and bodies:** the role of the national safety authorities (NSA) is critical both in maintaining safety and in ensuring that safety is not a barrier to market opening when developing interoperability. Most of the NSAs were established in 2006 and 2007. At the end of 2008 there was only one Member State that had not yet established its NSA. Member States must also set up independent investigation bodies charged with investigating serious railway accidents. By April 2009, only one Member State had not yet set up its national investigation body (NIB). The Agency has established networks to facilitate cooperation and sharing of views and experience by these national bodies.
- **Development and implementation of secondary legislation at European level:** the Railway Safety Directive provides for a large amount of secondary legislation to be adopted by the Commission and drafted by the Agency based on mandates issued by the Commission. In 2007 the first instrument was adopted: Commission Regulation (EC) No 653/2007 on the use of a common European format for safety certificates and application documents in accordance with Article 10 of Directive 2004/49/EC and on the validity of safety certificates delivered under Directive 2001/14/EC. Common safety methods for risk assessment and to assess achievement of safety targets were respectively adopted on 24 April 2009 and 5 June 2009 while further legislation is in preparation.
- **Safety Certification:** further information on the status of safety certification, and a proposed strategy for migration towards a single Community safety certificate, will be produced by the Agency in 2010 based on an evaluation of the safety certification procedures in the Member States.
- **Safety Reporting:** NSAs must publish annual reports giving information on the railway safety situation. The Agency uses these reports to continuously monitor the development of railway safety in the EU. Overall, initial figures confirm that railways are very safe for rail users, with fewer than 100 fatalities annually compared to about 40 000 on EU roads. Furthermore, the development of railway safety in the EU Member States can be regarded as very positive, as the number of passenger fatalities went down from around 400 in 1970 to only 58 in 2006. However, figures show that there is high representation of third parties in fatal railway accidents such as trespassers and level crossing users (together around 1 500 fatalities per year). Suicides constitute another particular feature of rail accidents: these fatalities are not reported as accidents and they are seldom subject to press reports. In 2006 they accounted for about 2 300, i.e. more than 60% of all fatalities.
- **Implementation of the Interoperability Directives:** all Member States have notified national measures implementing the Interoperability Directives 96/48/EC (High-Speed), Directive 2001/16/EC (Conventional Rail) and Directive 2004/50 (alignment of High-Speed and Conventional Rail Directives and extension of the scope).

Main conclusions: the Commission considers that the progress made thanks to the Community regulatory framework for railway safety and interoperability should encourage **further development of the internal rail market**, helping the emergence of new businesses, the cutting of entry costs and, ultimately, the competitiveness of rail as compared to other modes of transport. The analyses carried out in this report show mixed results for the time being.

1) As for rail safety, statistics indicate that the railway system in the Community is safe and the organisational changes stemming from the Community framework not only had no negative impact on safety but are expected to raise safety levels in the short and medium terms. From the market perspective, **safety requirements still impose significant entry barriers**. These relate mainly to the cost and the duration of the procedures involved at national level, their disparity across Europe and the lack of transparency/predictability. Substantial progress in this field is expected, partly due to the harmonisation of safety certificates for railway undertakings and the introduction of **Common Safety Methods**, and partly due to the cross-acceptance of national rules when authorising the placing into service of rail vehicles.

The success of these activities will depend on two conditions:

- the **full establishment of the newly created bodies**, especially national safety authorities (NSAs), operating at similar levels of competence and efficiency. This is necessary to create mutual trust between NSAs. The Commission will therefore continue to check that Community legislation has been correctly transposed as far as new structures and tools are concerned;
- the leading **role of the European Railway Agency in gradually harmonising safety rules and procedures** and progressively replacing them with common methods. This role may evolve even further in the future towards complementing or supplementing the activities of NSAs in the certification and authorisation processes;

2) The secondary legislation on interoperability is expected to be completed in 2010 as far as the TEN-T network is concerned. This is certainly a priority for the Commission, as no real interoperability can be achieved without technical specifications for interoperability (TSIs) for all sub-systems. Another priority for the Commission is to manage the transition from the old regime to the new regime created by the TSIs and the registers of infrastructure and rolling stock.

Moreover, the increasing number of conformity certificates issued for sub-systems and the limited number of derogations indicate that, overall, the existing TSIs are being successfully applied. This also underlines the **importance of Notified Bodies** and their role in increasing competence and mutual trust. However, residual open points in TSIs and the limited geographical scope of the TSIs may hamper the future integration of the European rail system as they constitute obstacles to interoperability. Therefore it will be essential to close the open points and to extend the scope of TSIs in a reasonably short period of time.

The Commission also notes that **progress towards interoperability is a slow process**. Because of the long lifetime of rail infrastructure and rolling stock and the need to keep investment costs for the sector at an acceptable level, radical changes towards harmonised solutions are not possible. That is why the Commission intends to concentrate efforts on implementing those technical specifications that will deliver significant benefits in the short and medium term, namely the CCS, TAF, TAP and OPE TSIs.

Lastly, it will also be necessary for future revisions of **TSIs** to give a higher consideration to the principles developed under the strategy for **simplifying the regulatory environment** and to ensure the relevance, effectiveness and proportionality of the railway legislation. For example, more use of voluntary European standards will be considered.

The Commission will continue to check how the legal framework for railway safety and interoperability is implemented in practice, ensuring that all the secondary legislation is introduced (mainly TSIs for conventional rail and common safety methods) and the new Directives are transposed. It then intends to **prepare a Communication reviewing its policies** on interoperability and the safety of the Community railway system.

Community's railways: safety, licensing, levying of charges, certification. 2nd package

2002/0022(COD) - 25/06/2003 - Council position

The Council adopted, by qualified majority, the "Second Railway Package", the Belgian, French and Luxembourg delegations voting against, establishing a single market for rail transport service. This package includes the following legal texts: - the Directive on the interoperability of the trans-European rail system; - the Directive on safety on the Community's railways; - the Directive on the development of the Community's railways (market access); - the Regulation establishing a European Railway Agency. Concerning the draft Directive on safety and in particular on the notification procedures of new national safety rules demanding a higher level of security than those set out in the Common Safety Objectives, the Council has accepted in total or in substance 8 of the Parliament's amendments. More specifically, it should be noted that as regards the national safety rules following the adoption of the Common Safety Objectives at Community level, the common position's approach is very different from that of Parliament. The latter supported the Commission's initial proposal and even called for going further by establishing a prior authorisation system for national rules. While it retains the principle of examining draft national rules and the possibility, where appropriate, of questioning them if they do not enable the levels required by the Common Security Objectives to be achieved, if they are incompatible with a TSI, or if they constitute a means of disguised discrimination, the common position has however not adopted the prior authorisation system. In addition, for reasons of clarity, a separate article is now devoted to the common safety targets (CST) and the common safety methods CSM. Furthermore, their more gradual introduction has now been foreseen. Thus, for a first and second set of CST and CSM to be developed, specified deadlines and further details as regards their content are now provided. The Council agrees that the establishment of a common regulatory framework should not prevent Member States from seeking further improvements of safety levels - beyond those flowing from the common standards - of their railway systems; at the same time the correct functioning of the internal market should not be compromised. The main elements of the common position are as follows: - a Member State may, after the adoption of CSTs, introduce a new national safety rule, which requires a higher safety level than the CSTs. Before adopting such a rule, the Member State shall consult all interested parties in due time and shall inform the Commission which shall submit the draft safety rule to a special Committee for its opinion;

- if the Commission finds that the draft safety rule is incompatible with the CSMs or with achieving at least the CSTs, or that it constitutes a means of arbitrary discrimination or a disguised restriction on rail transport operations between Member States, a Decision, addressed to the Member State concerned, shall be adopted; - a new article concerning the safety authorisation for infrastructure managers. - the provisions for the access to training facilities were strengthened; at the same time, the basic requirements to be met by train staff were deleted, since they would soon be laid down in a technical specifications for interoperability (TSI). - as regards the harmonisation of safety certificates, it was felt that the intermediate stage with non-binding guidelines was not necessary; - many more changes of a technical nature were incorporated, among which those regarding the tasks of the safety authority and several changes to the technical Annexes.