

Basic information	
2004/0048(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Railway transport: certification of train crews and drivers. 3rd package Subject 3.20.02 Rail transport: passengers and freight 3.20.10 Transport undertakings, transport industry employees	

Key players			
European Parliament	Committee responsible		Rapporteur
	CODE EP Delegation to Conciliation Committee		SAVARY Gilles (PSE) 29/01/2007
	Former committee responsible		Former rapporteur
	TRAN Transport and Tourism		SAVARY Gilles (PSE) 01/09/2004
	TRAN Transport and Tourism		SAVARY Gilles (PSE) 26/09/2006
	Former committee for opinion		Former rapporteur for opinion
	EMPL Employment and Social Affairs		The committee decided not to give an opinion.
Council of the European Union	Council configuration		Meetings
	Competitiveness (Internal Market, Industry, Research and Space)		2747
	Transport, Telecommunications and Energy		2589
	Transport, Telecommunications and Energy		2568
	Transport, Telecommunications and Energy		2607
	Transport, Telecommunications and Energy		2695
	Transport, Telecommunications and Energy		2629
	Agriculture and Fisheries		2819
	Education, Youth, Culture and Sport		2802
European	Commission DG		Commissioner

Commission	Energy and Transport	BARROT Jacques
European Economic and Social Committee		

Key events			
Date	Event	Reference	Summary
03/03/2004	Legislative proposal published	COM(2004)0142 	Summary
08/03/2004	Debate in Council		
10/06/2004	Debate in Council		
15/09/2004	Committee referral announced in Parliament, 1st reading		
07/10/2004	Debate in Council		
09/12/2004	Debate in Council		Summary
19/04/2005	Vote in committee, 1st reading		Summary
03/05/2005	Committee report tabled for plenary, 1st reading	A6-0133/2005	
27/09/2005	Debate in Parliament		
28/09/2005	Decision by Parliament, 1st reading	T6-0355/2005	Summary
28/09/2005	Results of vote in Parliament		
14/09/2006	Council position published	05893/5/2006	Summary
28/09/2006	Committee referral announced in Parliament, 2nd reading		
19/12/2006	Vote in committee, 2nd reading		Summary
22/12/2006	Committee recommendation tabled for plenary, 2nd reading	A6-0480/2006	
17/01/2007	Debate in Parliament		
18/01/2007	Decision by Parliament, 2nd reading	T6-0004/2007	Summary
18/01/2007	Results of vote in Parliament		
24/05/2007	Parliament's amendments rejected by Council		Summary
05/06/2007	Formal meeting of Conciliation Committee		
31/07/2007	Final decision by Conciliation Committee		
31/07/2007	Joint text approved by Conciliation Committee co-chairs	03636/2007	
11/09/2007	Report tabled for plenary, 3rd reading	A6-0315/2007	
24/09/2007	Debate in Parliament		
25/09/2007	Decision by Parliament, 3rd reading	T6-0402/2007	Summary
25/09/2007	Results of vote in Parliament		
26/09/2007	Decision by Council, 3rd reading		
23/10/2007	Final act signed		

23/10/2007	End of procedure in Parliament		
03/12/2007	Final act published in Official Journal		

Technical information	
Procedure reference	2004/0048(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 071
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	CODE/6/45217

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A6-0133/2005	03/05/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0355/2005 OJ C 227 21.09.2006, p. 0087-0464 E	28/09/2005	Summary
Amendments tabled in committee		PE380.841	30/11/2006	
Committee draft report		PE378.805	04/12/2006	
Committee recommendation tabled for plenary, 2nd reading		A6-0480/2006	22/12/2006	
Text adopted by Parliament, 2nd reading		T6-0004/2007	18/01/2007	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A6-0315/2007	11/09/2007	
Text adopted by Parliament, 3rd reading		T6-0402/2007	25/09/2007	Summary
Council of the EU				
Document type	Reference		Date	Summary
Council position	05893/5/2006 OJ C 289 28.11.2006, p. 0042-0067 E		14/09/2006	Summary
Draft final act	03636/2007/LEX		24/10/2007	
European Commission				
Document type	Reference		Date	Summary
	COM(2004)0140			

Document attached to the procedure		03/03/2004	Summary
Legislative proposal	COM(2004)0142 	03/03/2004	Summary
Commission response to text adopted in plenary	SP(2005)4139	20/10/2005	
Commission communication on Council's position	COM(2006)0515 	18/09/2006	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2007)0080 	22/02/2007	Summary
Commission document (COM)	COM(2013)0033 	30/01/2013	Summary
Follow-up document	SWD(2020)0137 	14/07/2020	
Follow-up document	SWD(2020)0138 	14/07/2020	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR0161/2004 OJ C 071 22.03.2005, p. 0026-0029	17/11/2004	
EESC	Economic and Social Committee: opinion, report	CES0131/2005 OJ C 221 08.09.2005, p. 0064-0070	09/02/2005	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	03636/2007	31/07/2007	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

[Directive 2007/0059](#)
[OJ L 315 03.12.2007, p. 0051](#)

[Summary](#)

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

2004/0048(COD) - 09/12/2004

Pending the European Parliament opinion at first reading, the Council unanimously agreed on a general approach on a draft Directive on the certification of train drivers operating locomotives and trains on the Community's rail network, which forms part of the Third Railway Package. The

Commission maintained a reservation at this stage, by means of which it seeks to ensure that the four legislative proposals comprising the Third Railway Package will be adopted together.

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

2004/0048(COD) - 28/09/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Gilles **SAVARY** (PES, FR) and made several amendments to the Commission's proposal. (Please see the document of 19/04/2005.) In addition to the points listed in that summary:

-Parliament clarified the definitions of "train driver" and "train crew".

-it deleted category C in the harmonised complementary certificate.

-at least three years" professional experience in category B is required for operation of a cross-border transport service.

-Minimum monitoring requirements include medical examinations every three years up to the age of 55 (rather than 60), thereafter every year. It also includes knowledge of infrastructure (including routes and operating rules) : every two years or after any absence from the route concerned of more than one year ; knowledge of rolling stock: every two years and updating of general professional knowledge and knowledge of traffic and safety provisions by way of continuing training: every year.

-Parliament inserted a new clause on the tasks of the competent authorities. These include issuing licences following checks that all the conditions laid down in this Directive have been met, on the basis of the requisite documents to be submitted by applicants, and key inspection tasks.

-Parliament also inserted a new clause on the financing of training and stated that railway undertakings and infrastructure managers shall be contractually responsible for professional training, both basic training and in-service training. A railway undertaking or infrastructure manager employing a train driver whose training has been funded in whole or in part by another railway undertaking or infrastructure manager which the driver has left voluntarily after less than five years' employment shall refund to that undertaking or infrastructure manager the cost of that training. The detailed rules for implementing this provision will be established on the basis of a recommendation drawn up by the Agency in the framework of Regulation 881/2004/EC.

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

2004/0048(COD) - 23/10/2007 - Final act

PURPOSE: to follow up the reform of the rail sector by establishing a certification system for train drivers operating locomotives and trains on the railway system in the Community (third rail package).

LEGISLATIVE ACT: Directive 2007/59/EC of the European Parliament and of the Council on the certification of train drivers operating locomotives and trains on the railway system in the Community.

CONTENT: the Council adopted three legislative proposals composing the third rail package, namely:

- this Directive on the certification of onboard personnel ensuring the operation of locomotives and trains;
- a Directive on the development of the Community's railways ([COD/2004/0047](#));
- a Regulation on rail passengers' rights and obligations ([COD/2004/0049](#)).

The three legal acts were adopted pursuant to the joint draft texts agreed by the Council and the European Parliament through an exchange of letters on 20 and 21 June 2007, in the framework of the conciliation procedure.

This Directive 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, train drivers and other stakeholders in the sector, in particular railway undertakings, infrastructure managers and training centres, are responsible.

The Directive shall only apply to train drivers, with the exception of other crew members on board locomotives and trains, who directly or indirectly help to ensure the safety of the train through operational and/or other safety-critical tasks. The Directive also includes a specific procedure to temporarily exclude national train drivers who only travel in the territory of their Member State.

All train drivers shall have the necessary fitness and qualifications to drive trains and shall hold the following documents: (a) a licence demonstrating that the driver satisfies minimum conditions as regards medical requirements, basic education and general professional skills; (b) one or more certificates indicating the infrastructures on which the holder is authorised to drive and indicating the rolling stock which the holder is authorised to drive. The licence shall be valid throughout the whole territory of the Community. A certificate shall be valid only on those infrastructures and rolling stock identified on it.

The licence and the certificate will be issued by the national authority (with the possibility of delegating this competence subject to certain conditions) and by the railway undertaking, or the infrastructure manager who employs the driver, respectively. Railway undertakings and infrastructure managers shall be required to ensure, and to check, that the licences and certificates of the drivers they employ or contract are valid. To this end, they shall set up a system for monitoring their drivers.

The Directive also defines the minimum requirements in terms of physical and psychological fitness, and also foresees compulsory periodic examinations and specifies the competences that a driver must possess. To apply for a licence, applicants must be at least 20 years old. However, a Member State may issue licences to applicants from the age of 18 years, the validity of such a licence then being limited to the territory of the issuing Member State. The linguistic knowledge criterion referred to in Annex VI shall be met for the infrastructure for which the certificate is being applied.

The examinations and examiners intended for the purpose of checking the requisite qualifications shall be determined: (a) for the part relating to the licence, by the competent authority, when laying down the procedure to be followed to obtain a licence in accordance with the Directive; (b) for the part relating to the certificate, by the railway undertaking or the infrastructure manager, when laying down the procedure to be followed to obtain a certificate in accordance with the Directive. As requested by the European Parliament, the Commission may have recourse to the urgency procedure in terms of comitology in the area of the choice of examiners and examinations of train drivers and of the adaptation to scientific and technical progress of the Annexes to this Directive.

Each railway undertaking and infrastructure manager shall be required to: (a) keep a register, or ensure that a register is kept, of all certificates issued, updated, renewed, amended, expired, suspended, withdrawn or reported lost, stolen or destroyed; (b) cooperate with the competent authority of the Member State where they are domiciled in order to exchange information with the competent authority and give it access to data required; (c) supply information on the content of such certificates to the competent authorities of the other Member States upon their request, when this is required as a consequence of their transnational activities. In order to ensure the interoperability of the aforementioned registers, the Commission shall adopt by 4 December 2008 at the latest and on the basis of a draft prepared by the Agency, the basic parameters of the registers to be set up.

In a report to be presented by 4 June 2009 at the latest, the European Railway Agency will develop a report evaluating the possibilities of certification for the other crew members involved in performing safety-critical tasks. On the basis of this report, the Commission will present by 4 June 2010 a legislative proposal on the certification of these crew members.

ENTRY INTO FORCE: 04/12/2007

TRANSPOSITION: 04/12/2009

IMPLEMENTATION: after the entry into force, the following timetable for application is set out:

- after 3 years: application to new drivers performing cross-border services, cabotage services or freight services in another Member State, or who work in at least two Member States, and (only periodic examinations) to drivers who have already provided these services;
- after 5 years: application to all drivers who must obtain a new licence or certificate;
- after 10 years: application to all drivers. The authorities issuing the licence or certificate must take into account the competences and experience of these drivers.

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

2004/0048(COD) - 24/05/2007

The Council decided not to accept all the European Parliament's second reading amendments to three legislative proposals, which form a so-called third railway package:

- proposal for a directive amending Council directive 91/440/EEC on the development of the Community's railways;
- proposal for a directive on the certification of train crews operating locomotives and trains on the Community's railway network;
- proposal for a regulation on international rail passengers' rights and obligations.

It accordingly decided to convene the Parliament-Council conciliation committee with a view to negotiating a joint text.

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

2004/0048(COD) - 25/09/2007 - Text adopted by Parliament, 3rd reading

The European Parliament adopted a resolution on the joint text approved by the Conciliation Committee for a directive on the certification of train drivers operating locomotives and trains on the railway system in the Community.

The main points of the agreement can be summarised as follows:

- **Comitology** – urgent procedure: Parliament managed to ensure that the Commission may use the urgent procedure under comitology only in two areas, namely the choice of examiners and examinations for train drivers, and the adaptation of the annexes to the directive to reflect scientific and technological progress.
- **Inclusion of other crew members within the scope of the directive**: Parliament secured agreement that no later than 30 months after the directive enters into force the Commission is to submit a report on crew members performing safety-related tasks. If necessary, the Commission will be required to table a legislative proposal concerning such crew members.

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

The European Commission presents a communication on the further integration of the European rail system: third railway package. The introduction of the new European regulatory framework for rail transport is progressing in line with the reform objectives set out in the White Paper European transport policy for 2010: Time to decide. These objectives place the revitalisation of the rail sector at the heart of the sustainable mobility strategy and, to this end, seek to improve the attractiveness and competitiveness of more environmentally friendly modes of transport. They also seek to put customers, and in particular passengers, at the centre of a high-quality transport system. In its Communication introducing the second railway package, the Commission put forward an implementation schedule for the measures set out in the White Paper for the phase following the second railway package. This document discusses the current status of the measures proposed in that package. The implementation of the measures is now set to continue by means of four new proposals: - a proposal for a Directive on the certification of locomotive and train drivers engaged in the carriage of passengers and goods in the Community. To enable train drivers to operate in the future integrated European railway area, it is important that action be taken now to set up a certification system which fully recognises the specific skills needed to drive a train and at the same time facilitates driver movement and mobility. The certification system thus needs to be based on a clear and logical distinction between two levels. Firstly, general knowledge, which is comparable to basic training, acquired by each individual. This general knowledge does not relate to a specific infrastructure or a particular network. It needs to be recognised and to be valid throughout the Community. Its recognition needs to be authenticated by a licence granted to the individual driver. Secondly, specific knowledge, relating to a specific route. This needs to encompass line knowledge, the rolling stock and the operating procedures of the particular railway undertaking. Accordingly, recognition of this knowledge must necessarily be restricted to a specific context. The Community instrument proposed observes these simple principles, in that it provides for a single document valid throughout the Community for the first level, and a series of certificates for the second. To be able to operate, drivers will therefore need to be in possession of a licence and a certificate (or several certificates) relating to the railway undertaking which employs them, the line they will be working on and the rolling stock they will be operating. - a proposal for a Regulation on international rail passengers' rights. Access to information and fares, and the option of buying international rail tickets easily, are the very least that is needed to make rail services attractive. In addition, a framework is required for liability in the event of accidents or incidents during a journey or in the event of delay. The principle of compensation also needs to be acknowledged, and thresholds set for the amount of compensation depending on the type of journey. The various channels for making appeals and handling complaints need to be clearly identified so as to facilitate passenger transactions. Lastly, account needs to be taken of the particular needs of people with reduced mobility. These arrangements to protect passengers' rights will be all the more vital once the market is opened up for certain services. The combination of an open market and a rigorous framework of passengers' rights should generate a positive dynamic in which international rail services improve in quality and become more attractive compared with competing modes, notably air travel, which has its own increasingly detailed framework to protect passengers' rights. - a proposal for a Directive on opening up the market for rail passenger transport services. There are two models for opening up to competition. Firstly, a competitive procedure can be used to award a public service contract, accompanied, if necessary, by exclusive rights for a certain period and, where appropriate, by compensation for the public service. This model works well for suburban and regional services. It underpins the Commission's proposal to modernise Regulation No 1191/69 on public service obligations. The other model consists, as for rail freight, in opening up access to the infrastructure for operators wishing to provide services. It should be noted that opening up access rights is not in itself sufficient to create a situation of genuine competition right away. Before operating, potential competitors will need to have: - rolling stock and drivers authorised to move through the Member States in which they plan to operate; - a railway undertaking licence in a Member State; - a safety certificate issued by the national safety authority of each Member State; - infrastructure capacity. This second model, based on free access to the infrastructure, is better suited to long distance services and to specific services where a commercial innovation is likely to attract new customers (e.g. occasional trains, car trains). The high-speed trans-European network, which will be linked up by 2010, could also provide scope for the appearance of new competing services. That is why the proposal now being put forward is designed to take account of the diversity of markets segments by providing a clear and simple link between the area covered by public service contracts (within the meaning of Regulation No 1191/69) and the area open to new initiatives. Under the proposal, all international services would be opened up to competition on 1 January 2010, except for services operating between two specific locations under a public service contract. - a proposal for a Regulation on the quality of rail freight services. The Commission proposes a common base which will apply by default if the railway undertaking and its customer fail to introduce a specific system to improve quality. To that end, the proposal establishes mandatory minimum clauses for transport contracts, failure to include which will make the latter null and void. These clauses include a requirement for the parties to provide for a system of compensation in the event of freight being delayed or damaged. In addition, the directive introduces minimum ceilings for compensation in the event of delay: the parties have to set the amount by mutual agreement in the transport contract, but in order to provide a reasonable economic incentive the compensation may not be less than 5% of the cost of the transport. The Commission believes this proposal will act as a strong incentive for railway undertakings and their customers to take a contractual approach to quality management.

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

2004/0048(COD) - 03/03/2004 - Legislative proposal

PURPOSE : to lay down the conditions and procedures for the certification of train crews operating locomotives and trains on the Community's rail network, and to specify 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. **PROPOSED ACT** : Directive of the European Parliament and of the Council. **CONTENT** : The Commission states in its proposal that it has rapidly become clear that common rules should be adopted on certification of train drivers to facilitate their interoperability and improve management. This should eventually make it easier to certify railway undertakings while maintaining a high level of safety and guaranteeing conditions for free movement of workers in the railway sector. Examination of the proposals of the second railway package has highlighted the importance of this aspect of interoperability for establishing an integrated railway market. The Commission goes on to discuss the contributions emanating from the social dialogue and the results of the Commission's own study, as well as the pre-legislative consultation that it has undertaken. The main points are as follows: -the scope of the directive is limited to train drivers in cross-border services who effectively work in the framework of interoperability. Implementation will be in two stages. The main aim is swiftly to apply provisions on the certification of drivers who are most directly affected by the opening-up of the railway market and who have to operate in the territory of other Member States. In the second phase, the Commission intends, on the basis of a report covering the first phase, to extend the implementation of the European licence to all train drivers, taking account of exceptions which were already provided for in the scope of the proposal for a directive on safety and which form part of the second railway package. Similarly, other members of the train crew who are indirectly involved in traffic safety will be dealt with later on. - a single model for the certification of train drivers: In order to ensure that the documents certifying a

person's ability to drive trains are standardised in terms of form and content, the Community defines a Community model for certification, in which the validity of the various component parts will be recognised by each of the Member States. The measure be implemented in two phases: - in the short term, certification will produce two sections: (a) the licence itself, a card in the same format as the European driving licence, issued by the competent authority on the basis of Community-wide criteria and recognised reciprocally, and (b) a harmonised certificate, issued by the railway undertaking which employs the driver, confirming that the driver has the specific knowledge required (rolling stock, infrastructure, periodic checks); - in the longer term, the two component parts will be incorporated into a smart card, which meets operational and technical specifications to be defined through the comitology procedure. - the authority responsible for issuing the licence will be the national safety authority which is to be established in accordance with Article 15 of the draft rail safety directive. This authority will also be responsible for setting up a national register of licences, which must make it possible to find the key data relating to a driver's actions to gain and upgrade skills. - Member States' reciprocal recognition of the licences should facilitate drivers' ability to move both from one Member State to another and from one railway undertaking to another; - definition of minimum requirements to obtain a driver's certificate: The requirements include at least the minimum age for train drivers, criteria related to the medical and psychological fitness of candidates, their professional experience and knowledge in a number of fields related to train driving, as well as their knowledge of the infrastructure on which they will have to operate. Drivers must have knowledge of the languages indicated by the relevant infrastructure manager to enable them to communicate effectively in routine, abnormal and emergency situations. - Annex V defines a general training programme covering the professional knowledge required in order to obtain the licence. This programme is supplemented by training objectives relating more specifically to rolling stock and infrastructure; this is the knowledge required in order to obtain the harmonised complementary certificate, as described in Annexes VI and VII of the proposal. - there are provisions on inspections of the validity and content of the licence and a procedure to object to the certification.

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

2004/0048(COD) - 22/02/2007 - Commission opinion on Parliament's position at 2nd reading

Firstly, the Commission fully accepted amendments which made reference to the right to appeal and giving details regarding the possibility for the competent authority to delegate tasks.

The Commission accepted the following European Parliament amendments in part:

- the agreement on work/rest times: this is not relevant in this instance and reference to it is therefore inappropriate. Checks by employers are already provided for in the common position;

- the certification of crew members directly performing train and passenger safety-related tasks: the Commission supports this requirement which reverts to the scope of its original proposal, which was aimed not only at drivers but also at the train crew performing security-related tasks. However it must be re-worded. In order to immediately specify the scope, a description of the security-related duties of the crew concerned should be annexed to the Directive and paragraph 6 should be amended accordingly.

In August 2000 the CER, the association which represents a large number of railway undertakings and infrastructure managers in the Community, drew up and published a report on the responsibilities of personnel carrying out interoperability services. The report was timed to coincide with the opening up of the market.

On the basis of this report, the Commission proposes identifying the crew members covered by the Directive by specifying their duties, as set out below: checking the effectiveness of the brakes; opening and closing the doors; being involved in train departure procedures; responding to alarm signals; participating in manoeuvres; checking for faults and taking steps in the event of a fault while the train is moving; helping the driver in certain circumstances.

An amendment provides that, in order to amend the annexes to the Directive, the Agency and the social partners must be systematically involved. However, the reference to the Agency Regulation is not relevant. It is necessary to differentiate between the Technical Specifications for Interoperability (TSI) developed by the Agency in accordance with the directives on rail interoperability (Directives 96/48/EC and 2001/16/EC) and annexes to a directive which are subject to the co-decision procedure or, by delegation of powers, to the Committee procedure, but at the Commission's initiative. As a result, this amendment should be re-worded to state that social partners must be properly consulted about requirements which have an impact on working conditions and the health and safety of workers.

The amendment concerning medical examinations is acceptable provided that the expressions "occupational physician" and "accredited physician" are amended.

The Commission **rejected** the following amendments:

- "**Mutual recognition**": the use of this term is not acceptable as the licence is issued on the basis of harmonised criteria. The concept of "validity throughout the territory of the European Union" used in the common position is more appropriate.

- **Driver falling ill**: it would not be practicable to involve the competent authority each time a driver falls ill. Furthermore, it is the railway undertaking or the infrastructure manager which is responsible for rail safety when a driver works on its behalf, and it is therefore they and not the "employer" which must take the necessary steps in the event of risk.

- **Voluntary leave**: if a driver voluntarily leaves the railway undertaking which trained him, the railway undertaking which recruits that driver be obliged to refund the original railway undertaking the pro rata cost of the training received by the driver on the basis of harmonised criteria which should be established on the basis of a Recommendation drawn up by the Agency.

Despite the fact that in principle the proposal appears to protect the investment made by an employer for training a driver, this amendment is not acceptable for several reasons:

- there are no equivalent clauses in other modes of transport, in particular in the aviation sector in which training is also very expensive;
- a clause of this kind concerns labour law and hence does not seem particularly relevant in this directive;
- the reasons why a driver leaves an employer may be many and varied; if a driver leaves as a result of the employer's fault, this type of reimbursement would not be justified.

However, the Commission could accept a provision under which the matter is resolved on the basis of national or private law.

- **Date of transposition:** the date for transposition proposed by the Parliament (31 December 2007) is unrealistic. A conciliation would appear necessary, and the legislative process should end in autumn 2007. This would not leave the time needed for the Member States to transpose the Directive by the date proposed.

- **Adding the date of the driver's last medical examination to his complementary certificate:** this is not acceptable as it would represent a non-negligible additional cost for railway undertakings/infrastructure managers and would provide no additional guarantee in terms of rail safety.

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.

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

2004/0048(COD) - 18/09/2006 - Commission communication on Council's position

The Commission states that its proposal envisaged covering all train crew members with safety-critical tasks and did not provide for the possibility of derogation for a Member State. However, the Commission recognises that the Council common position does not alter the main objective or the spirit of its proposal. On the possibility of a temporary derogation for "domestic" drivers, the Commission cannot accept such derogations on the scale of entire countries for several reasons. Firstly, in social terms, this would be tantamount to creating two "classes" of drivers, whereas in practice these categories are not watertight. This would generate career and wage differences that it would be difficult to justify. Secondly, in safety terms, there would be two categories of drivers on the same route: those trained and certified in accordance with this directive, and those trained and certified in accordance with an ad hoc national system. They might not have the same reactions in the same situations. Thirdly, in economic terms, the Member States would have to maintain two different sets of legislation and two accreditation/recognition systems for trainers/examiners, the undertakings would have to maintain two different training systems, etc. This duplication would be inefficient and generate costs.

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

2004/0048(COD) - 18/01/2007 - Text adopted by Parliament, 2nd reading

The European Parliament voted on the "third rail package" - three separate reports on opening up rail networks to competition (COD/2004/0047), minimum rights for passengers (COD/2004/0049) and a European licence for train drivers (COD/2004/0048.). Wide differences remain between Parliament and the Council, and this legislation is now expected to go to conciliation.

In this report by Gilles Savary (PES, FR) on **certification of crews**, Parliament basically followed the recommendations of its competent committee. The key change from the common position is that Parliament insists that crew members (and not only train drivers) performing safety-related tasks should be in possession of a certificate attesting that they meet minimum requirements relating to medical fitness, basic education and general professional skills.

For the key amendments, please refer to the summary dated 19/12/2006.)

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

2004/0048(COD) - 30/01/2013 - For information

This report from the Commission relates **to the profile and tasks of other train crew members**.

Legislative framework and purpose of report: Directive 2007/59/EC on the certification of train drivers operating locomotives and trains on the railway system in the Community establishes the minimum requirements an applicant must meet to obtain a train driver's licence or a harmonised complementary certificate. Since its entry into force, the Commission has already adopted additional legislation, in accordance with the provisions set out in the Directive.

While Directive 2007/59/EC does not cover other train crew members performing safety-critical tasks, it states that the Commission shall present a report and, if appropriate, bring forward a legislative proposal on a certification system for the other crew members **on the basis of a report prepared by the European Railways Agency (ERA)**.

This Communication focuses on other crew members for passenger trains, **a professional group that plays an important role for a safe railway system with respect to operational safety and to passenger safety and security**. It takes into account the report prepared ERA, after consulting stakeholders, which was delivered to the Commission in 2010. Before adopting this communication, the Commission services discussed the results of the ERA report with the social partners in the context of the sectoral Social Dialogue Committee.

Current situation: in its report, ERA collected data on the number of other crew members, provided by several railway undertakings in 11 Member States. By extrapolation, **the number of other crew members for passenger trains is estimated at 70 000 in Europe**, including Switzerland and Norway. Nearly all Member States (20 out of 22) regulate the profession, although in different ways and with different levels of detail. Of these 20 Member States, 14 also regulate profiles and tasks at national level.

Two profile patterns (PP1 and PP2): have been introduced as the common core tasks of different job profiles from different Member States; they are detailed in the Annex of this report. While PP1 includes almost all the tasks related to train preparation, only one train preparation task is assigned to PP2.

Within these two profile patterns, common safety-critical tasks have been identified such as: the door closure procedure, train departure and passenger evacuation in the event of degraded and emergency situations. **Most of the railway undertakings have implemented a certification system for PP1, but not for PP2.**

Attestation of training: in the context of the opening of the national markets for passenger transport proposed in the framework of the [fourth railway package](#), the Commission intends to develop **at European level an attestation of the risks and passenger assistance training** awarded to the job holder in compliance with all the minimum basic requirements concerning other crew members from the TSI OPE. (*Commission Decision of 11 August 2006*)

concerning the *Technical Specification for Interoperability relating to the subsystem Traffic Operation and Management of the trans-European conventional rail system*). This attestation should be valid **throughout the European Union** and must be taken into account by the railway undertakings when they recruit staff.

The Commission will request the European Railway Agency to develop for other crew members the necessary provisions for an attestation focused on passenger safety issues. An amendment in Annex III to the Railway Safety Directive will make a provision for this attestation process to be part of the Railway Undertaking Safety Management System. **ERA** will:

- **identify the common safety-critical tasks** of other crew members not related to vehicle design/rolling stock and will define the content of the training attestation and the scope of Annex J of TSI OPE;
- develop a **model** of attestation training in safety-critical tasks, to be delivered to the job holder.

Regulation at national level: those national binding rules, which have been established by the national authorities or have been transferred from the national company to the national level, must be applied by all railway undertakings operating in those Member States. Generally speaking, **these regulations seem not to be fully compliant with European legislation**.

The Commission will ask ERA to include in its analysis of the National Safety rules **a specific chapter on the national binding rules** related to other crew members and to what extent they go beyond their scope. Should these rules be incompatible with EU legislation, the Commission could take appropriate measures to ensure their correct application.

The Commission believes that its proposals will reinforce the safety performances and improve the quality of this important railway profession as well as supporting the mobility of its workers.