## Basic information

| | |
|---|---|
| **2006/0274(COD)**<br><br>COD - Ordinary legislative procedure (ex-codecision procedure)<br>Regulation | Procedure completed |
| European Railway Agency: new tasks<br><br>Amending Regulation (EC) No 881/2004 2002/0024(COD)<br><br>**Subject**<br><br>3.20.02 Rail transport: passengers and freight<br>8.40.08 Agencies and bodies of the EU | |

## Key players

### European Parliament

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| TRAN Transport and Tourism | COSTA Paolo (ALDE) | 10/03/2008 |

| Former committee responsible | Former rapporteur | Appointed |
|---|---|---|
| TRAN Transport and Tourism | COSTA Paolo (ALDE) | 23/01/2007 |

| Former committee for opinion | Former rapporteur for opinion | Appointed |
|---|---|---|
| BUDG Budgets | The committee decided not to give an opinion. | |

### Council of the European Union

| Council configuration | Meetings | Date |
|---|---|---|
| Competitiveness (Internal Market, Industry, Research and Space) | 2910 | 2008-12-01 |
| Transport, Telecommunications and Energy | 2835 | 2007-11-29 |
| Environment | 2856 | 2008-03-03 |

### European Commission

| Commission DG | Commissioner |
|---|---|
| Energy and Transport | TAJANI Antonio |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|

| | | | |
|---|---|---|---|
| 13/12/2006 | Legislative proposal published | COM(2006)0785 | Summary |
| 17/01/2007 | Committee referral announced in Parliament, 1st reading | | |
| 11/09/2007 | Vote in committee, 1st reading | | Summary |
| 01/10/2007 | Committee report tabled for plenary, 1st reading | A6-0350/2007 | |
| 28/11/2007 | Debate in Parliament | | |
| 29/11/2007 | Decision by Parliament, 1st reading | T6-0558/2007 | Summary |
| 29/11/2007 | Results of vote in Parliament | | |
| 03/03/2008 | Council position published | 16138/3/2007 | Summary |
| 13/03/2008 | Committee referral announced in Parliament, 2nd reading | | |
| 29/05/2008 | Vote in committee, 2nd reading | | Summary |
| 03/06/2008 | Committee recommendation tabled for plenary, 2nd reading | A6-0210/2008 | |
| 08/07/2008 | Debate in Parliament | | |
| 09/07/2008 | Decision by Parliament, 2nd reading | T6-0341/2008 | Summary |
| 01/12/2008 | Act approved by Council, 2nd reading | | |
| 16/12/2008 | Final act signed | | |
| 16/12/2008 | End of procedure in Parliament | | |
| 31/12/2008 | Final act published in Official Journal | | |

## Technical information

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|---|---|
| **Procedure reference** | 2006/0274(COD) |
| **Procedure type** | COD - Ordinary legislative procedure (ex-codecision procedure) |
| **Procedure subtype** | Legislation |
| **Legislative instrument** | Regulation |
| **Amendments and repeals** | Amending Regulation (EC) No 881/2004 2002/0024(COD) |
| **Legal basis** | EC Treaty (after Amsterdam) EC 071-p1 |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | TRAN/6/60437 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee draft report | | PE388.559 | 24/05/2007 | |
| Amendments tabled in committee | | PE390.636 | 25/07/2007 | |
| Committee report tabled for plenary, 1st reading/single reading | | A6-0350/2007 | 01/10/2007 | |

| | | | | |
|---|---|---|---|---|
| Text adopted by Parliament, 1st reading/single reading | | T6-0558/2007 | 29/11/2007 | Summary |
| Committee draft report | | PE404.395 | 02/04/2008 | |
| Amendments tabled in committee | | PE404.804 | 25/04/2008 | |
| Committee recommendation tabled for plenary, 2nd reading | | A6-0210/2008 | 03/06/2008 | |
| Text adopted by Parliament, 2nd reading | | T6-0341/2008 | 09/07/2008 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Council position | 16138/3/2007 | 03/03/2008 | Summary |
| Draft final act | 03669/2008/LEX | 16/12/2008 | |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(2006)0785 | 13/12/2006 | Summary |
| Document attached to the procedure | SEC(2006)1641 | 13/12/2006 | |
| Document attached to the procedure | SEC(2006)1642 | 13/12/2006 | |
| Commission response to text adopted in plenary | SP(2007)6527 | 18/12/2007 | |
| Commission communication on Council's position | COM(2008)0136 | 07/03/2008 | Summary |
| Commission opinion on Parliament's position at 2nd reading | COM(2008)0687 | 30/10/2008 | Summary |

**Additional information**

| Source | Document | Date |
|---|---|---|
| National parliaments | IPEX | |
| European Commission | EUR-Lex | |

**Final act**

Regulation 2008/1335
OJ L 354 31.12.2008, p. 0051 Summary

# European Railway Agency: new tasks

2006/0274(COD) - 09/07/2008 - Text adopted by Parliament, 2nd reading

The European Parliament adopted, under the 2nd reading of the codecision procedure, a legislative resolution amending the Council's common position for adopting a regulation of the European Parliament and of the Council amending Regulation (EC) No 881/2004 establishing a European Railway Agency (Agency Regulation). The recommendation for 2nd reading (under the codecision procedure) had been tabled for consideration in plenary by Paolo **COSTA** (ALDE IT), on behalf of the Committee on Transport and Tourism.

The amendments are the result of a compromise agreement between Parliament and Council. The main ones are as follows:

**Certification of entities in charge of maintenance**: 18 months after the entry into force of this Regulation, the Agency shall send to the Commission a recommendation in view of the implementation of the system of certification of entities in charge of maintenance in accordance with the Railway Safety Directive. The Agency's assessment and recommendation shall in particular cover certain aspects, inter alia, the content and the specifications of a system of certification adapted to the maintenance of wagons; the type of bodies competent for certification and the requirements to be imposed on such bodies; and the format and validity of the certificates to be delivered to the entities in charge of maintenance. Within a period of three years from the adoption by the Commission of the system of certification of maintenance referred to in the Railway Safety Directive, the Agency shall send to the Commission a report evaluating the implementation of such system, and shall also send a recommendation with a view to defining the content and the specifications of a similar certification system in the case of entities in charge of the maintenance for other vehicles, such as locomotives, passenger cars, electric multiple units (EMUs) and diesel multiple units (DMUs).

The Agency must analyse the alternative measures decided in accordance with the Railway Safety Directive in the context of its report on safety performance.

**ERTMS:** The Agency, in coordination with the Commission, shall assume its prescribed tasks with a view to ensuring a coherent development of the ERTMS, and to contributing to the compliance of ERTMS equipment as implemented in Member States with the specifications in force.

The Agency shall recommend the adoption of a new version only when the previous version has been deployed at a sufficient rate. The development of new versions shall not be detrimental to the rate of deployment of the ERTMS, the stability of the specifications which is needed for the optimisation of the production of ERTMS equipment, the return of investment for railway undertakings and the efficient planning of the deployment of the ERTMS.

In accordance with the Railway Interoperability Directive, the Agency shall ensure that successive versions of ERTMS equipment are backward compatible, as from the version adopted by the Commission on 23 April 2008. With regard to ERTMS equipment which were placed in service before 23 April 2008 or whose installation or upgrading was at an advanced stage of deployment on that date, the Agency shall prepare an assessment report which shall identify: the additional costs to be borne by early implementers as a consequence of the introduction of the version adopted by the Commission on 23 April 2008; and all possible mechanisms, including financial ones, to support the migration from the earlier versions to the version adopted by the Commission on 23 April 2008.

The Agency shall set up and chair an ad hoc working group of notified bodies with a view to checking that the EC procedures of verification carried out by notified bodies in the context of specific ERTMS projects are applied consistently. It will also cooperate with national safety authorities with a view to checking that the procedures of authorisations of placing in service are applied consistently. Where the Agency finds that there is a risk of lack of technical and operational compatibility between networks and vehicles fitted with equipments being subject to these procedures, it must inform the Commission which will take the appropriate measures.

Should technical incompatibilities emerge between networks and vehicles in the context of specific ERTMS projects, notified bodies and national safety authorities shall ensure that the Agency can obtain any relevant information on the applied procedures for "EC" verification and placing in service as well as on the operational conditions. The Agency shall, if necessary, recommend appropriate measures to the Commission.

The Agency will evaluate the certification process of the ERTMS equipment within 2 years of entry into force of the Regulation.

Lastly, on the basis of the Agency report, the Commission shall assess the costs and benefits to use a single laboratory equipment, a single reference track and/or a single certification body at Community level. Such certification body needs to comply with the criteria of Annex VIII of the Railway Interoperability Directive. The Commission may present a report and, if appropriate, bring forward a legislative proposal to improve the ERTMS certification system.

# European Railway Agency: new tasks

2006/0274(COD) - 30/10/2008 - Commission opinion on Parliament's position at 2nd reading

After several months of negotiations under the Slovenian Council Presidency, a solution leading to an agreement was arrived at during the informal trialogue on 24 June 2008. The agreement mainly concerned the Agency's tasks in the area of ERTMS.

The Commission can accept the compromise amendment adopted by the European Parliament at the end of the second reading.

# European Railway Agency: new tasks

2006/0274(COD) - 29/11/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Paolo **COSTA** (ALDE, IT) making some amendments to the proposal amending Regulation (EC) N° 881/2004 establishing a European Railway Agency.

The main amendments are as follows:

**Working parties**: for drawing up certain recommendations, the Agency shall establish a limited number of working parties. These working parties shall take as a basis, on the one hand, the expertise built up by professionals from the railway sector, in particular the experience gained by the European Association for Railway Interoperability (AEIF), and, on the other hand, the expertise of the competent national authorities. The Agency shall ensure that its working parties are competent and representative and that they include adequate representation of those sectors of industry and of those users affected by measures which might be proposed by the Commission on the basis of the recommendations addressed to it by the Agency. The work of the working parties shall be carried out in a transparent manner. Whenever the work provided for in the relevant provisions has a direct impact on the working conditions and the health and safety of workers in the industry, representatives from the workers' organisations shall participate in the relevant working parties.

**National safety rules:** as important differences between Member States exist between infrastructures and rolling stock, MEPs believe that special attention should be made on safety clearance for infrastructure and rolling stock. They propose that, initially, the Agency shall identify and compare the differences between Member States regarding safety clearance for infrastructure and rolling stock. For the purposes of such work, a working party shall be set up and the involvement of stakeholders and the social partners shall be secured. Before 1 January 2010, the Agency, after consultation with the national safety authorities, shall propose solutions to reduce the number and the scope of the national rules relating to the classification of rolling stock in Group B. Moreover, as from 2015, and in cooperation with national competent safety authorities, the Agency shall be entrusted with the task of granting authorisations for placing in service vehicles conforming to TSIs.

**Technical opinions**: the Agency may be requested, by an applicant, to provide a technical opinion on a negative decision which has been taken by a safety authority as regards the granting of a safety certificate or a safety authorisation pursuant to Articles 10 and 11 of Directive 2004/49/EC. The Agency may be called upon to provide a technical opinion on the application of the appropriate version of ERTMS system. At the request of a railway undertaking, an infrastructure manager or supplier, the Agency shall provide a technical opinion on which version of the ERTMS system specifications should apply.

**Relationship between vehicle keepers and railway undertakings**: within a period of 1 year for wagons and 2 years for other vehicles, from the date on which this Regulation enters into force, the Agency shall assess the relationship between vehicle keepers and railway undertakings with regard to maintenance. Within the same period, the Agency shall send to the Commission a report setting out, if necessary, recommendations on the implementation of a mandatory system of certification for vehicle keepers. The Agency's recommendations shall

cover in particular the following aspects: i) the content and the specifications of a mandatory and mutually recognised system of certification for vehicle keepers; ii) the type of certification bodies in charge of implementing a mandatory system with national safety authorities or notified bodies in accordance with the provisions of Directive 2004/49/EC; iii) the technical and operational inspections and controls to be carried out by the authorities of Member States; iv) whether the keeper is capable, from the point of view of organisation, staff and equipment, of ensuring the maintenance of the types of vehicle which the keeper manages and of assuming the responsibilities of a contracting entity where new vehicles and subsystems are ordered or vehicles and subsystems are to be upgraded or renewed, in accordance with the Interoperability Directive; v) whether a condition relating to insurance should be introduced in the specifications of the certification system.

**European register**: the Agency shall set up and keep a European Register of authorised types of vehicle. This register shall include the types of rail vehicle authorised by Member States and shall be accessible electronically. Member States shall inform the Agency regularly of any authorisations granted or suspended.

**Staff:** the Agency's staff may include temporary employees recruited by the Agency, for a maximum of five years, from professionals in the sector on the basis of their qualifications and experience in the field of railway safety and interoperability.

# European Railway Agency: new tasks

2006/0274(COD) - 13/12/2006 - Legislative proposal

PURPOSE: to extend the mission of the European Railway Agency.

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

BACKGROUND: at present, the national procedures for the approval of locomotives are regarded as among the most serious barriers to the creation of new railway undertakings in the freight sector and as a major stumbling block affecting the interoperability of the European rail system. As no Member State has the power to determine unilaterally that the operating authorisation it has issued will be valid on the territory of other Member States, a Community initiative is needed to harmonise and simplify the national procedures and to have more systematic recourse to the principle of mutual recognition. This extension will entail amending Regulation 881/2004/EC establishing the European Railway Agency which is the aim of the present proposed Regulation, and the Interoperability Directives (96/48/EC, 2001/16/EC, 2004/50/EC) and the Railway Safety Directive (2004/49/EC).

CONTENT: this initiative seeks to deal with the problem of rolling stock authorised for entry into service in one Member State but not automatically accepted in another Member State .

The proposed solution involves drawing up a procedure at Community level covering two aspects:

- the Agency is to be asked to identify the different national procedures and technical rules in force, and to draw up and update a list of requirements that can be verified only once. At the same time, the Member States are being asked, pending the amendment of the legislation, to apply on a voluntary basis those Working Party recommendations already published by the Commission;

- recourse to the principle of mutual recognition of entry-into-service authorisations already issued by Member States is to be made compulsory. In keeping with this principle, rolling stock in respect of which an entry-into-service authorisation has already been issued in one Member State will not, in

appropriate cases, need to undergo further certification in another Member State except with regard to additional national requirements attributable, for instance, to the local system specifications. At the same time, however, the Agency Regulation must be updated to include any new tasks with which the Agency has been entrusted.

The proposal to extend the mission of the European Railway Agency is being presented alongside two other initiatives, namely a proposal to merge and recast the three inter-operability Directives into one legislative act (see COD/2006/0273) and a proposal to amend Article 14 of the Railway Safety Directive (see COD/2006/0272). The Commission is proposing amendments to all of these acts for three reasons: firstly, to simplify and streamline legislation for the sake of clarity; secondly, to facilitate the free movement of trains across the EU; and thirdly, to propose several technical improvements.

This proposal concerns amendments to Regulation 881/2004/EC establishing the European Railway Agency. The main thrust of the amendments relate to facilitating the cross-border acceptance of rolling stock, although other amendments not related to this matter are being proposed at the same time. In summary, the proposed amendments are as follows:

**Cross-referencing requirements:**

- The Agency will be asked to create a “reference document”, which will list all national rules and specifications on rolling stock. The document will act as a valuable cross-reference tool for applying the principle of mutual recognition. The Agency will be responsible for ensuring that the applicable national rules comply with each Community set parameter. This provision (Article 8a) needs to be viewed in the context of the proposed amendment to the European Railway Safety Directive (2004/49/EC), and its procedures for authorising the use of rolling stock.

**Interoperability of the rail system:**

- Following a Commission request the Agency may be asked to examine projects for which an application for Community financial aid has been submitted. The Agency will be asked if the proposed project conforms with the relevant TSI’s.

**Relationship between wagon keepers and railway undertakings:**

- The Agency is asked to assess the relationship between “wagon keepers” on the one hand and “railway undertakings” on the other. It will be asked to examine, in particular, whether the keeper is capable of ensuring wagon maintenance; whether they have the correct information needed to perform maintenance activities (such as records or plans) and whether they are in possession of the necessary tools for monitoring the state of the wagons.

**Certification of train crews:**

- Following adoption of the third railway package the Agency Regulation needs to be updated and reference made to the Directive on the “certification of train personnel responsible for safety”. (See COD/2004/0048). The Agency will be given the task of developing standard models for licences and complementary certificates as well as conducting a study on the use of smart cards.

**New ERTMS tasks:**

- It is being proposed that the Agency assume the role of systems’ authority for developing and implementing the “European Rail Traffic Management System” or ERTMS. Accordingly, the Agency will set up a procedure for managing requests for changes to ERTMS specifications; it will be expected to support the Commission in migrating ERTMS and coordinating installation of the ERTMS along the trans-European transport corridors; to supervise the application of “EC” verification; to assess the technical compatibility between existing infrastructure and rolling stock; and to develop a strategy for managing the different versions of the ERTMS with a view to ensuring technical and operational compatibility between infrastructure and rolling stock fitted with different versions.

- In other tasks, the Agency, following a Commission request or in agreement with the Commission, may perform *ad hoc* tasks – even if that task is not expressly set out in either the Regulation or in the Agency’s work programme.

# European Railway Agency: new tasks

2006/0274(COD) - 16/12/2008 - Final act

PURPOSE: to amend Regulation (EC) No 881/2004 in order to include new tasks in the aim of facilitating the free movement of trains.

LEGISLATIVE ACT: Regulation (EC) No 1335/2008 of the European Parliament and of the Council amending Regulation (EC) No 881/2004 establishing a European Railway Agency (Agency Regulation).

CONTENT: the Council adopted this Regulation amending the Regulation establishing a European Railway Agency by approving the European Parliament's amendments at second reading.

The main aim of the Regulation is to adapt the legislative framework of the European Railway Agency to the new tasks arising from the amendments made to the Directive on Railway Safety and the Directive on interoperability of the rail system.

New tasks for the Agency will include the following:

a) to develop a reference document cross-referencing all the national rules applied by the Member States for putting rolling stock into service;

b) to organise the systems work of the national safety authorities so as gradually to reduce the number of national rules imposed by each Member State and to identify those which can be deemed to be equivalent;

c) to produce technical opinions if requested by the national safety authorities or the Commission.

In addition, the Regulation clarifies a number of different tasks based on the experience acquired following the establishment of the Agency, particularly in the context of setting up the ERTMS (European Rail Traffic Management System) system and the registers of rolling stock.

Parliament and Council introduced the following points into the Regulation:

- the Agency may issue technical opinions in the case of a negative decision by a National Safety Agency or on the equivalence of national rules for the technical parameters established in the Rail Interoperability Directive. The Agency may also be requested to deliver an opinion on urgent modifications of Technical Specifications of Interoperability (TSIs);
- the Agency is tasked with preparing a report setting out, if necessary, recommendations on the implementation of a system of voluntary certification of vehicle maintenance as set out in the rail safety Directive;
- the tasks and responsibilities of the Agency with regard to train drivers, other crew members performing safety related tasks and staff involved in the operation and maintenance of the rail system are specified;
- the provisions on registers have been adapted in the light of the changes introduced in the rail safety directive and the rail interoperability Directive and the regime for accessibility of documents and registers is specified;
- the conditions under which the Commission can request the Agency's assistance with regard to implementation of the Community's legislative framework on interoperability and safety are specified.

ENTRY INTO FORCE: 01/01/2009.

# European Railway Agency: new tasks

2006/0274(COD) - 29/11/2007

The Council reached a political agreement on the proposal for a Regulation amending the Regulation establishing a European Railway Agency. It will adopt its common position at one of its forthcoming meetings and will forward it to the European Parliament for a second reading in the framework of the co-decision procedure.

The Council made a series of amendments to the Commission’s proposal:

- the Agency may issue technical opinions in the case of a negative decision by a National Safety Agency or on the equivalence of national rules for the technical parameters established in the rail interoperability Directive. The Agency may also be requested to deliver an opinion on urgent modifications of Technical Specifications of Interoperability (TSIs);
- the Agency is tasked with preparing a report setting out, if necessary, recommendations on the implementation of a system of voluntary certification of vehicle maintenance as set out in the rail safety Directive;
- the tasks and responsibilities of the Agency with regard to train drivers, other crew members performing safety related tasks and staff involved in the operation and maintenance of the rail system are specified;
- the provisions on registers have been adapted in the light of the changes introduced in the rail safety Directive and the rail interoperability Directive and the regime for accessibility of documents and registers is specified;
- the conditions under which the Commission can request the Agency's assistance with regard to implementation of the Community's legislative framework on interoperability and safety are specified.

# European Railway Agency: new tasks

2006/0274(COD) - 07/03/2008 - Commission communication on Council's position

The Commission recalls that an early agreement was not possible due to Parliamentary concerns regarding the role the Agency should play vis-à-vis national safety authorities. The Council’s common position, adopted by unanimity, does not undermine the essential objectives and underlying approach of the Commission’s proposal. In addition, the common position already incorporates many of the amendments adopted by Parliament at first reading as well as finding consistency with the recast of the Directive on Railway Interoperability, on which agreement was reached at first reading.

Below is a summary of the most important elements of the Commission’s position:

**Parliamentary amendments accepted by the Commission and incorporated in full or in part in the common position:**

- The principle of extending temporary agents contracts recruited by the Railway Agency, allows for a guaranteed continuous service. However, the principle should be provided for within the first ten years of the Agency operating, given that the majority of contracts will have come to an end by 2010. After, 2010, the expiry dates of contracts will be staggered, which will provide for a better continuity of service.

**Parliamentary amendments rejected by the Commission and not incorporated in full or in part in the common position:**

- An amendment that could be prejudicial to the Executive Director’s option to set up any working party he deems necessary to accomplish his task.
- An amendment requesting the Commission to draw up a report on arrangements for cooperation between national safety authorities and the Agency. The Commission would like to examine this request in more detail before embarking on this path.
- An amendment requiring the Railway Agency to issue a technical opinion on a refusal by the safety authority to issue a safety certificate or safety authorisation.

To conclude, the Commission considers the Council's common position, adopted by unanimity, to serve the essential objectives of the Commission's initial proposal. It can, therefore, accept it.

# European Railway Agency: new tasks

2006/0274(COD) - 03/03/2008 - Council position

The Council is of the view that the three legislative proposals that seek to integrate the European railways, namely i) recasting the interoperability Directives for conventional and high-speed rail (COD/2006/0273); ii) amending the Railway Safety Directive (COD/2006/0272) and iii) amending the European Railway Agency Directive, can bring about important improvements to the EU's railway regulatory framework. The proposal lowers existing barriers to the free circulation of railway vehicles on the European rail network and facilitates the cross-acceptance of railway vehicle authorisations amongst the EU Member States.

To recall, following the first reading of the proposals, both Council and Parliament reached an agreement on the proposal for a Railway Interoperability Directive. They could not, however, align their positions on the proposed Railway Safety Directive and the European Railway Agency Regulation. As a result, the Council adopted common positions on both proposals, whilst taking due account of some amendments which the Parliament adopted following its first reading.

Two key policy issues dominated the debate on reforming the European Railway Agency (the Agency). In preparing its common position, the Council took as a starting point, the text forming the basis of an agreement with Parliament on the Railway Interoperability Directive and the Railway Safety Directive. The Council also made some changes to the Commission proposal with a view to ensuring a better use of the Agency's technical expertise.

**1) Classification of national rules:**

Although the common position restructures the Commission's initial proposal significantly, it manages to retain the most important provisions. For example, the Council maintained all key provisions concerning the classification of national rules within the context of authorising the placing of railway vehicles in service. Under the terms of the common position, the Agency will be required to create a reference document comparing the national technical and safety rules and to update the reference document on a regular basis. In so doing, the Agency can build up a clearer picture of which national rules are of equivalent value. This should help contribute towards the cross-acceptance of vehicle authorisations amongst the Member States.

Council concurs with Parliament concerning the reduction of national rules on authorising the placing of vehicles in service that are equivalent amongst the Member States. The Council is of the view, however, that the most efficient method will be to ask the Agency to submit a regular update of the reference document rather than to follow Parliamentary suggests to set a single and fixed date (1 January 2010). Similarly, Parliamentary proposals that the Agency give priority to national rules which identify differences regarding safety clearance for infrastructure and rolling stock have not been incorporated in the common position.

**2) Main modifications to Commission proposal:**

In summary, the main modifications to the Commission's initial proposal, are as follows:

- The Council has agreed to make better use of the Agency's expertise. Firstly, the Agency may be called upon to provide technical opinions in the case of a negative decision by a National Safety Agency and on the equivalence of national rules for the technical parameters established in the Railway Interoperability Directive. Secondly, the Agency may be requested to deliver an opinion on urgent modifications of Technical Specifications for Interoperability (TSIs).
- The Agency is asked, in the common position, to prepare within 6 months of the Directive entering into force, a report setting out any recommendations on the implementation of a system of voluntary certification of vehicle maintenance as set out in the Railway Safety Directive. The Council expects these recommendations to be consistent with the roles and responsibilities of railway undertakings. At the same time facilitating the safety certification procedure of railway undertakings and avoiding the administrative burden of duplicating controls, inspections and/or audits, must be encouraged. In view of the fact that a mandatory system of certification would increase the administrative burden on industry, as well as imposing additional costs, the Council has decided to reject this Parliamentary proposal.
- The common position lists all of the Agency's tasks as set out in the "Train Drivers Directive". In listing all of these tasks, the Council is seeking to distinguish between tasks concerning train drivers, on the one hand, and tasks concerning other crew member performing safety-critical tasks, on the other. As to the train drivers, the list includes tasks such as preparing a draft for a Community model for the train drivers' licence and ensuring the interoperability of the registers for train drivers' licences. As to the crew member performing safety-critical tasks, the Agency must present a report identifying their profile and tasks. On a final point, staff involved in the operation and maintenance of the rail system, but belonging to either of the two categories mentioned above, the Agency is required to make recommendations suggesting common criteria for defining vocational competences and assessing staff.
- New provisions relating to "registers", state that the Agency needs to draw up common specifications for the newly created register of authorised vehicle types as well as for the infrastructure register. The Agency must also set up and keep the register for vehicle types. This complements a similar Parliamentary proposal.
- The common position specifies conditions under which the Commission may request assistance from the Agency for the implementation of the legislative framework on interoperability and safety.
- A Parliamentary amendment that extends the work contracts of staff, with a view to ensuring the continuity of its operations has been taken on board and included in the common position. However, the Council does limit this more flexible regime to the first ten years of operation given that during this time frame it will be particularly important to retain qualified staff.
- In other changes, the Council: provides that not only national safety agencies but also national authorities may (on certain occasions) appoint Agency representatives; supports the Commission's objective of having notified bodies across the Community which function on the basis of the same criteria; agrees with the Commission that the Agency should be involved in assessing the interoperability aspects of certain requests

for Community funding (the Agency must provide an answer within 2 months); and supports the Commission's proposal vis-à-vis the Agency's tasks in relation to ERTMS.

**3) Parliamentary amendments:**

The amendments not accepted by the Council include those:

- regarding working parties of the Agency;
- entrusting the Agency, as from 2015, with the task of granting authorisations for placing vehicles conforming to TSIs in service. This problem has, however, partially been resolved by adding the principle of mutual recognition of any authorisations. The Commission is invited to draw up a report on the effectiveness of the new procedure;
- amendments on the Agency's Technical Opinions have only partially been incorporated in the Council's common position. The Council has rejected the possibility for individual applicants to request a Technical Opinion directly from the Agency, as proposed by Parliament. In addition, the Council agrees to provisions that require the Agency to set up a procedure for managing requests for changes to ERTMS specifications.

To conclude, the Council recognises that all three legislative initiatives are an important step in the integration of the European railway area. Significant progress has already been achieved by Council and Parliament – for example finding agreement at first reading on the Railway Interoperability Directive. This agreement lays a sound foundation for both co-legislators to find compromise solutions on the proposals amending the Agency Regulation and the Railway Safety Directive during second reading.