

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.