

Interoperability of the rail system within the EU. Recast. 4th Railway Package

2013/0015(COD) - 15/12/2015 - Council position

The Council adopted its position in first reading with a view to the adoption of the directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (recast).

The proposal is part of the fourth railway package, which consists of six legislative proposals aimed at removing the remaining barriers to the completion of the Single European Railway Area. It aims to establish the conditions to be met to **achieve interoperability within the Union rail system** in order to:

- define an optimal level of technical harmonisation,
- make it possible to facilitate, improve and develop rail transport services within the Union and with third countries and
- contribute to the completion of the single European railway area and the progressive achievement of the internal market.

Those conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of that system as well as the professional qualifications of, and health and safety conditions applying to, the staff who contribute to its operation and maintenance.

The intention is to **increase the efficiency of the vehicle authorisation process**, encouraging the recognition of interoperability authorisations across the EU and improving the coherence of the national legal frameworks related to the interoperability aspects of the internal market for railways.

The main points of the Council position are as follows:

Vehicle authorisation for placing on the market: the Council position provides for a **dual system of authorisations** in relation to the issuing of vehicle authorisations for placing on the market, depending on the intended area of use. According to this approach, the Agency acts as a one-stop-shop for vehicles intended for cross-border operations, but **national safety authorities keep an important role** in carrying out the assessments necessary to the issuing of these authorisations.

For vehicles involved in national traffic only, a choice exists for the applicant to submit a request for authorisation either to the Agency or to the national safety authority. In both cases, the procedure and the decision criteria remain the same.

Liability of the Agency: the Council's text clarifies that the Agency takes **full responsibility for the authorisations** it issues, including contractual and non-contractual liabilities.

Appeal and arbitration procedure: the Council's text reflects the option given to the applicant of referring the matter to a national court in case of disagreement with the measure taken by the national safety authority. It also provides for an appeal procedure in case of a disagreement between the national safety authority and the Agency.

Placing in service: the Council text provides that **the national safety authorities should continue to authorise the placing in service of track-side control-command and signalling**, including the European signalling system ERTMS.

In order to reinforce harmonisation of ERTMS at EU level through increased interoperability from the outset of the procedure, the Council's text provides for the **Agency to be consulted** before any call for tenders relating to ERTMS track-side equipment.

Cooperation between the Agency and national safety authorities: the Council's text provides for the conclusion of cooperation agreements between the Agency and one or more national safety authorities in the context of authorisations issued for vehicles intended for cross-border operations.

Such cooperation agreements may include **specific cooperation arrangements** in cases of networks requiring specific expertise due to geographical or historical reasons and/or share a track gauge with neighbouring third countries. Therefore, Member States with specific railway network characteristics may cooperate in the authorisation process under the umbrella of the Agency. These cooperation agreements may also include provisions to facilitate the extension of the area of use in the three Baltic States once a vehicle has been authorised in one of them.

Adoption of national rules: the Council position aims at establishing a **flexible procedure** on existing and new national interoperability rules. It clarifies the procedures to be applied for the notification of existing and new national rules, as well as on the assessment to be made by the Agency (up to a period of 8 months). The approach aims at avoiding the validation of national rules without their prior assessment by the Agency.

Vehicle registers: each Member State will keep a national vehicle register until the European Vehicle Register is operational. The Commission will adopt a **specification for a European Vehicle Register** that would incorporate national vehicle registers, with a view to creating a common tool, while, at the same time, allowing for the maintenance of additional functions relevant to Member States' specific needs. The European Vehicle Register shall be operational **five years** after the entry into force of the Directive.

New provisions in the text lay down the **information** to be contained in the European and national vehicle registers.

Duration of the transitional period and transposition period: Member States may continue to apply the existing provisions of Directive 2008/57/EC until **three years** after the date of entry into force of the Directive. This period may be extended for one more year. In such case, Member States have to notify the Commission and the Agency of their decision and provide justification. The same procedure applies for ERTMS pre-authorisations. A similar scheme of three plus one year applies to the transposition period.

Delegated acts/implementing acts: with regard to technical specifications for interoperability (TSIs), the Council proposes a combination of delegated and implementing acts. The Commission will adopt delegated acts for the setting out of specific objectives of technical specifications for interoperability, followed by implementing acts in order to implement those specific objectives.