



Basic information	
<p><b>2013/0016(COD)</b></p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p>	Procedure completed
<p>Railway safety. Recast. 4th Railway Package</p> <p>Repealing Directive 2004/49/EC <a href="#">2002/0022(COD)</a>  Repealing Directive 2008/110/EC <a href="#">2006/0272(COD)</a>  Repealing Directive 2008/57/EC <a href="#">2006/0273(COD)</a>  Amended by <a href="#">2020/0071(COD)</a>  Amended by <a href="#">2020/0161(COD)</a>  See also <a href="#">2013/0013(COD)</a>  See also <a href="#">2013/0014(COD)</a>  See also <a href="#">2013/0015(COD)</a>  See also <a href="#">2013/0028(COD)</a>  See also <a href="#">2013/0029(COD)</a></p> <p><b>Subject</b></p> <p>3.20.02.01 Railway safety</p>	





Key players				
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>
	<a href="#">TRAN</a> Transport and Tourism		CRAMER Michael (Verts /ALE)	16/07/2014
			Shadow rapporteur	
			BACH Georges (PPE)	
			AYALA SENDER Inés (S&D)	
			ZLE Roberts (ECR)	
		BILBAO BARANDICA Izaskun (ALDE)		
		AIUTO Daniela (EFDD)		
	<b>Former committee responsible</b>		<b>Former rapporteur</b>	<b>Appointed</b>
	<a href="#">TRAN</a> Transport and Tourism		CRAMER Michael (Verts /ALE)	06/03/2013
	<b>Former committee for opinion</b>		<b>Former rapporteur for opinion</b>	<b>Appointed</b>
	<a href="#">JURI</a> Legal Affairs		SPERONI Francesco Enrico (EFD)	20/02/2013
Council of the European Union	<b>Council configuration</b>		<b>Meetings</b>	<b>Date</b>
	Transport, Telecommunications and Energy		3436	2015-12-14

	<a href="#">Transport, Telecommunications and Energy</a>	3261	2013-10-10
	<a href="#">Transport, Telecommunications and Energy</a>	3318	2014-06-05
European Commission	<b>Commission DG</b>	<b>Commissioner</b>	
	Mobility and Transport	BULC Violeta	
European Economic and Social Committee			
European Committee of the Regions			

Key events			
Date	Event	Reference	Summary
30/01/2013	Legislative proposal published	<a href="#">COM(2013)0031</a> 	<a href="#">Summary</a>
07/02/2013	Committee referral announced in Parliament, 1st reading		
10/10/2013	Debate in Council		
17/12/2013	Vote in committee, 1st reading		
09/01/2014	Committee report tabled for plenary, 1st reading	<a href="#">A7-0015/2014</a>	<a href="#">Summary</a>
25/02/2014	Debate in Parliament	<a href="#">CRE link</a>	
26/02/2014	Decision by Parliament, 1st reading	<a href="#">T7-0150/2014</a>	<a href="#">Summary</a>
13/10/2014	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
10/11/2015	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations	<a href="#">GEDA/A/(2017)009240</a> <a href="#">PE615.244</a> <a href="#">PE615.256</a>	
15/12/2015	Council position published	<a href="#">10580/1/2015</a>	<a href="#">Summary</a>
04/02/2016	Committee referral announced in Parliament, 2nd reading		
15/03/2016	Vote in committee, 2nd reading		
17/03/2016	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A8-0056/2016</a>	<a href="#">Summary</a>
28/04/2016	Decision by Parliament, 1st reading	<a href="#">T8-0145/2016</a>	<a href="#">Summary</a>
28/04/2016	Results of vote in Parliament		
28/04/2016	Debate in Parliament	<a href="#">CRE link</a>	
11/05/2016	Final act signed		
11/05/2016	End of procedure in Parliament		
26/05/2016	Final act published in Official Journal		

Technical information	
<b>Procedure reference</b>	2013/0016(COD)
<b>Procedure type</b>	COD - Ordinary legislative procedure (ex-codecision procedure)
<b>Procedure subtype</b>	Recast
<b>Legislative instrument</b>	Directive
	Repealing Directive 2004/49/EC <a href="#">2002/0022(COD)</a>

	<a href="#">Repealing Directive 2008/110/EC 2006/0272(COD)</a> <a href="#">Repealing Directive 2008/57/EC 2006/0273(COD)</a> <a href="#">Amended by 2020/0071(COD)</a> <a href="#">Amended by 2020/0161(COD)</a> <a href="#">See also 2013/0013(COD)</a> <a href="#">See also 2013/0014(COD)</a> <a href="#">See also 2013/0015(COD)</a> <a href="#">See also 2013/0028(COD)</a> <a href="#">See also 2013/0029(COD)</a>
<b>Legal basis</b>	Treaty on the Functioning of the EU TFEU 091-p1
<b>Mandatory consultation of other institutions</b>	<a href="#">European Economic and Social Committee</a> <a href="#">European Committee of the Regions</a>
<b>Stage reached in procedure</b>	Procedure completed
<b>Committee dossier</b>	TRAN/8/00571

Documentation gateway				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee draft report		<a href="#">PE513.387</a>	18/06/2013	
Amendments tabled in committee		<a href="#">PE519.443</a>	20/09/2013	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0015/2014</a>	09/01/2014	<a href="#">Summary</a>
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0150/2014</a>	26/02/2014	<a href="#">Summary</a>
Committee draft report		<a href="#">PE575.332</a>	26/01/2016	
Amendments tabled in committee		<a href="#">PE577.061</a>	22/02/2016	
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A8-0056/2016</a>	17/03/2016	<a href="#">Summary</a>
Text adopted by Parliament, 2nd reading		<a href="#">T8-0145/2016</a>	28/04/2016	<a href="#">Summary</a>
<b>Council of the EU</b>				
Document type		Reference	Date	Summary
Coreper letter confirming interinstitutional agreement		<a href="#">GEDA/A/(2017)009240</a>	30/06/2015	
Council statement on its position		<a href="#">14526/2/2015</a>	03/12/2015	
Council position		<a href="#">10580/1/2015</a>	15/12/2015	<a href="#">Summary</a>
Draft final act		<a href="#">00012/2016/LEX</a>	11/05/2016	
<b>European Commission</b>				
Document type		Reference	Date	Summary
Document attached to the procedure		<a href="#">SWD(2013)0009</a>	30/01/2013	
Document attached to the procedure		<a href="#">SWD(2013)0008</a>	30/01/2013	
Legislative proposal		<a href="#">COM(2013)0031</a>	30/01/2013	<a href="#">Summary</a>
Commission communication on Council's position		<a href="#">COM(2016)0033</a>	26/01/2016	<a href="#">Summary</a>
		<a href="#">COM(2022)0012</a>		

**National parliaments**

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	ES_PARLIAMENT	COM(2013)0031	29/03/2013	
Contribution	PT_PARLIAMENT	COM(2013)0031	06/04/2013	
Contribution	PL_SEJM	COM(2013)0031	28/04/2013	
Contribution	CZ_SENATE	COM(2013)0031	01/07/2013	
Contribution	IT_CHAMBER	COM(2013)0031	31/10/2014	
Contribution	IT_SENATE	COM(2013)0031	03/12/2014	
Contribution	IT_SENATE	COM(2013)0031	08/12/2014	

**Other institutions and bodies**

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR0027/2013	08/10/2013	

**Additional information**

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

**Final act**

Corrigendum to final act 32016L0798R(01)  
OJ L 059 07.03.2017, p. 0041

Corrigendum to final act 32016L0798R(05)  
OJ L 317 09.12.2019, p. 0114

Directive 2016/0798  
OJ L 138 26.05.2016, p. 0102

[Summary](#)

**Delegated acts**

Reference	Subject
<a href="#">2018/2585(DEA)</a>	Examination of delegated act
<a href="#">2018/2636(DEA)</a>	Examination of delegated act
<a href="#">2020/2693(DEA)</a>	Examination of delegated act

# Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 26/01/2016 - Commission communication on Council's position

The Commission presented a communication concerning the position of the Council on the adoption of a Directive of the European Parliament and of the Council on railway safety (Recast).

The Commission considered that the political agreement adopted by the Transport Council on 10 December 2015 **supports the main objectives of the Commission proposal** to simplify the process for granting safety certificates. However, the political agreement **differs from the Commission proposal in some respects**, namely it gives railway undertakings operating in only one Member State the choice to apply for a safety certificate to either the Agency or the domestic national safety authorities (NSAs).

However, in both cases the procedure and the decision criteria would remain the same

In addition, the Council position:

- clarifies the role and responsibilities of the actors of the rail system to improve the safety level, through the strengthening of the provisions on the respective role of the actors of the rail system in developing and improving railway safety. Infrastructure managers and railway undertakings should have a major responsibility for the safe operation of the train and that they should be obliged to establish safety management systems;
- clarifies that the Agency is accountable in the context of issuing safety certificates and that it is fully responsible for the single safety certificate it issued;
- provides for an appeal procedure for applicants reflecting the possibility given to refer the matter to a national court in case of disagreement with the decision taken by the Agency or by a NSA;
- states in more detail how the Agency and the NSAs are to cooperate when issuing single safety certificates;
- provides details on the supervision activities of the NSAs and how they relate to certification;
- provides implementing powers to the Commission for establishing the reporting structure for accident and incident investigation reports.

The Council position also includes new provisions addressing specific cases and the concerns of some Member States.

While the Commission considered the above-mentioned points as acceptable, **it regretted the following aspects** of the Council position:

- **the transposition time-limit** increased from 2 to 3 years;
- all modifications introduced in relation to the **delegated and implementing powers**, including the systematic recourse to the non-opinion clause, which is contrary to the letter and to the spirit of Article 5§4 second subparagraph, point b) of Regulation (EU) No 182/2011 on comitology;
- the suppression of the obligation of the Member State to supply to the Commission information which is clear and precise as regards the **transposition of Directives** in national law, as acknowledged by the European Parliament, the Council and the Commission in their Joint Political Declaration of 27 October 2011 on explanatory documents.

In a spirit of compromise, the Commission **accepted the position adopted by the Council** thus allowing the European Parliament to adopt the final text in a second reading, together with the other five proposals under the Fourth Railway Package.

Indeed, the Commission considers that **simultaneously adopting both the market and technical pillars** would maximise the benefits in terms of the quality of service, efficiency and the competitiveness of the rail industry.

# Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 28/04/2016 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council on railway safety (recast).

Parliament **approved** the Council position at first reading.

It also took note of the **Commission statement on explanatory documents** annexed to this resolution. In the statement, the Commission recalled that the European Parliament, the Council and the Commission acknowledged that the information Member States supply to the Commission as regards the transposition of directives in national law 'must be clear and precise' in order to facilitate the achievement by the Commission of its task overseeing the application of Union law. In the present case, explanatory documents could have been useful to this end. The Commission regretted that the final text does not contain provisions to this effect.

# Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 11/05/2016 - Final act

**PURPOSE:** to improve the efficiency and competitiveness of the Single European Railway Area in the field of safety (fourth railway package).

**LEGISLATIVE ACT:** Directive (EU) 2016/798 of the European Parliament and of the Council (recast).

**CONTENT:** the Directive on railway safety, together with the [Directive](#) on interoperability, and the [Regulation](#) on the European Railways Agency (ERA) are part of the technical pillar of the fourth railway package. It consists of a **recast of Directive 2004/49/EC** of the European Parliament and of the Council on railway safety.

**Objectives:** the Directive aims to establish a **common approach to safety** in order to increase economies of scale for railway undertakings active across the Union, as well as to simplify and reform the administrative procedures for issuing safety certificates, thereby removing the fragmentation of

rules across the Union. More specifically, the objective of the Directive is to amend the existing regulatory framework in order to put in place the migration towards an **EU single safety certificate for railway undertakings and infrastructure managers**, to be issued by the European Railway Agency ("the Agency").

To this end, the new Directive lays down provisions to ensure the **development and improvement of the safety of the Union rail system** by:

- harmonising the regulatory structure in the Member States;
- defining responsibilities between the actors in the Union rail system;
- developing common safety targets ('CSTs') and common safety methods ('CSMs') with a view to gradually removing the need for national rules;
- setting out the principles for issuing, renewing, amending and restricting or revoking safety certificates and authorisations;
- requiring the establishment, for each Member State, of a national safety authority and an accident and incident investigating body; and
- defining common principles for the management, regulation and supervision of railway safety.

The main points of the Directive are as follows:

**Issuing of safety certificates:** the European Railway Agency will play a key role in issuing the safety certificates to railway undertakings and will act as a **one-stop-shop for all applications**. It will be empowered to issue safety certificates to railway undertakings in several Member States. National safety authorities will continue to play an important role in carrying out the assessments necessary to the issuing of the certifications. For railway undertakings involved in national transport only, a choice exists to submit a request for certification either to the Agency or to the national safety authority.

**Role and responsibilities of the different actors in the safety chain:** the Directive strengthens the provisions on the role and responsibilities of the different actors of the rail system in developing and improving railway safety. It provides that **infrastructure managers and railway undertakings** have a major responsibility for the safe operation of the train and that they are obliged to establish safety management systems.

**Cooperation agreements between the Agency and the national safety authorities:** the Directive introduces a new mechanism concerning the conclusion of cooperation agreements between the Agency and national safety authorities to facilitate the practical implementation of the new certification system.

**National rules in the field of safety:** the Directive provides for the possibility for Member States: (i) of maintaining national safety rules notified by 15 June 2016 pursuant to Directive 2004/49/EC in certain cases; (ii) of adopting new national rules in the field of safety.

The Directive clarifies the procedures to be applied for the notification of national rules and specifies rules on the assessment to be made by the Agency.

**Supervision:** national safety authorities will oversee continued compliance with the legal obligation incumbent on railway undertakings and infrastructure managers to use a safety management system.

The monitoring of compliance with applicable **working, driving and rest-time rules** for train drivers shall be ensured by competent authorities designated by Member States.

If a national safety authority finds that a holder of a single safety certificate no longer satisfies the conditions for certification, it shall ask the Agency to restrict or revoke that certificate.

If, during supervision, a national safety authority identifies a serious safety risk, it may at any time apply **temporary safety measures**, including immediately restricting or suspending the relevant operations.

**Safety culture and reporting:** the Directive provides for the possibility of **confidentially reporting** safety risks that were ignored.

Furthermore, the safety management system must contain the provision of **programmes for the training of staff** and systems to ensure that the staff's competence is maintained and that tasks are carried out accordingly, including arrangements with regard to physical and psychological fitness.

The Agency will be able to establish a **tool that facilitates the exchange of information** among the relevant actors who identify a safety risk.

Following a serious accident, the railway undertaking shall provide **assistance to victims** helping them in complaints procedures. An investigation of an accident or incident shall be the subject of a report stating the objectives of the investigations and shall contain, where appropriate, safety recommendations. The investigating body shall make public the final **report** in the shortest possible time and normally not later than 12 months after the date of the occurrence.

**Transitional period:** Member states may continue to apply the provisions of Directive 2004/49/EC until 16 June 2019.

ENTRY INTO FORCE: 15.6.2016.

TRANSPOSITION: by 16.6.2019. Member States may extend the transposition period by 1 year. Member States shall notify the Agency and the Commission and present the reasons for such an extension.

DELEGATED ACTS: the Commission may adopt delegated acts in order to supplement and amend certain non-essential elements of this Directive. The power to adopt delegated acts shall be conferred on the Commission for a period of **5 years (which may be tacitly extended) from 15 June 2016**. The European Parliament or the Council may raise objections to a delegated act within two months from the date of notification (which may be extended by two months). If the European Parliament or the Commission raise objections, the delegated act will not enter into force.

## Railway safety. Recast. 4th Railway Package

PURPOSE: to improve the efficiency and competitiveness of the Single European Railway Area in the field of safety (**fourth railway package**).

PROPOSED ACT: Directive of the European Parliament and of the Council (amendment of Directive 2004/49/EC on railway safety).

PARLIAMENT'S ROLE: Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in the last decade, the EU railway market has witnessed profound changes, gradually introduced by three legislative 'railway packages' intended to open up the national markets and make railways more competitive and interoperable at the EU level, while maintaining high level of safety. However, the modal share of rail in intra-EU transport has remained modest. This is why the Commission has put forward the **Fourth Railway Package in order to enhance the quality and efficiency of rail services by removing the remaining market obstacles**.

This proposal for a Directive, along with the [proposal to recast Directive 2008/57/EC on interoperability](#), are part of this fourth package which focuses on the removal of remaining administrative and technical barriers by:

- establishing a common approach to safety and interoperability rules to increase economies of scale for railway undertakings active across the EU;
- decreasing administrative costs,
- accelerating administrative procedures, as well as avoiding disguised discrimination,
- relying on the [European Railways Agency](#).

In order to pursue efforts to establish a single market for rail transport services, it is necessary to establish a **common regulatory framework for railway safety**. Member States have until now developed their safety rules and standards mainly on national lines. Differences in principles, approach and culture have made it difficult to break through the technical barriers and establish international transport operations.

IMPACT ASSESSMENT: the Commission undertook an [impact assessment](#). In order to support the Commission in the impact assessment process, an external consultant was tasked to prepare an impact assessment support study and to undertake a targeted consultation of stakeholders.

LEGAL BASIS: Article 91 of the Treaty on the Functioning of the European Union.

CONTENT: the Commission is proposing to amend the current regulatory framework with a view to:

- facilitating the creation and implementation of a **single EU safety certificate**, in accordance with the recommendation of the European Railways Agency. Access to the railway infrastructure would only be granted to railway undertakings holding a safety certificate. In this regard, the proposal introduces amendments designed to take into account the new role of the national safety agencies in the transition process towards a single safety certificate and the reallocation of responsibilities between them and the Agency.
- **adapting the text to take into account developments in the rail market**: the current trend of outsourcing activities or services is leading to the emergence of new actors subject to increasing economic and financial pressure, while internal control is decreasing. This may have consequences for safety, unless a new way of monitoring is established, through contractual or other arrangements, to ensure that risk control measures are duly implemented by all relevant actors.

Other proposed changes include:

- adapting the scope and definitions to improve consistency with the Interoperability Directive;
- adapting the provision regarding national rules to take into account the evolution of the legal framework (adoption of technical specifications for interoperability (TSIs)), in accordance with the conclusions of the Task Force established for the purpose;
- clarifying the cooperation between the national investigation body and the judicial authorities in case of investigation following an accident.

It should be noted that the fourth railway package also includes: (i) [a proposal to amend Regulation \(EC\) No 1370/2007](#) concerning the opening of the market for domestic passenger transport services by rail and (ii) [a proposal amending Directive 2012/34/EU](#) establishing a single European railway area.

BUDGETARY IMPLICATIONS: there are no implications for the Union budget.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

## Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 09/01/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Michael CRAMER (Greens/EFA, DE) on the proposal for a directive of the European Parliament and of the Council on railway safety (recast).

The parliamentary committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should be to amend the Commission's proposal as follows:

**Minimum provisions:** the Directive would lay down minimum provisions, beyond which Member States may legislate only in accordance with the rules, to ensure the development and further improvement of safety of the Union's railways and improved access to the market for rail transport services by:

- developing common safety targets and common safety methods with a view to greater harmonisation of national rules at a high safety level;
- introducing a **single safety certificate that is valid and recognised** in all Member States within the specified areas of operation;
- requiring the Agency to publish guidelines on railway safety and safety certification, including lists of examples of good practice, in particular for cross-border transport.

According to the report, safety should be ensured not only for passengers and employees, including the staff of contractors, but also for users of level crossings and persons residing near railway lines.

**Role of actors in the rail system:** Members recommended that there be a **clear distinction between tasks** and responsibilities between the Agency and the national safety authorities.

The Agency would become a **one-stop shop** for safety certificates in the Union, using the valuable expertise, local knowledge and experience of national safety authorities. It should have **exclusive competence** to issue, renew, amend or revoke safety certificates for both railway undertakings and infrastructure managers.

Member States, the Agency and all actors of the rail system shall establish a '**just culture**' that ensures the consistent reporting of accidents, incidents and potential safety risks. Member States should support the Agency in its work of monitoring the development of railway safety on a Union level.

The Agency would set up and manage a **centralised database** containing all information submitted in relation to incidents and accidents.

**National rules:** Member States would be able to draft new national rules after the entry into force of the Directive only in a certain number of cases. After receipt of the draft national rule, the Agency should initiate a coordination process involving all national safety authorities in order to ensure the highest possible degree of harmonisation across the Union.

The Agency would establish and publish **common guidelines** for the adoption of new, or the amendment of existing, national rules.

**Safety management system:** this would ensure the control of all risks associated with the activity of the infrastructure manager or railway undertaking, including **proper qualification and training of staff**, as well as the supply of maintenance and material and the use of contractors.

For **cross-border infrastructure**, and in particular for cross-border tunnels, specific safety management systems would be developed and improved in order to ensure the necessary coordination and preparedness of the competent emergency services on both sides of the border.

Infrastructure managers would also establish a **system for coordination** with managers in neighbouring countries with which the network is linked.

**Applications for single safety certificates:** Members considered that the Agency should take a decision on an application without delay and in any event **not more than three months** after receipt of the application.

**Maintenance of vehicles:** the Agency should set up and make public, and subsequently update without delay, a **register of certified entities in charge of maintenance**. When drafting or amending TSIs, the Agency should harmonise rules on minimum maintenance requirements in order to ensure the safety of the entire rail system.

**National safety authority:** the amended text provided for the possibility of Member States also deciding to jointly establish a safety authority competent for their territories. The tasks of the national safety agency would include:

- monitoring compliance with **working, driving and rest time rules** for locomotive drivers in the railway companies and on the track;
- monitoring compliance with applicable rules on the safe maintenance and operation of **rail freight wagons** and other rolling stock;
- drawing up a **general emergency plan** for the rail network covering, in particular: (i) channels for communicating with victims' families following a serious accident; (ii) a system for providing care for victims following an accident, which will guide them in the complaints procedures.

**Transition period:** Members recommended a **time limit of 1 year** after entry into force of the Directive Contractual is defined for the establishment of arrangements that define the scope, procedures and hierarchy of cooperation between the Agency and the national safety authorities.

The deadline for transposition and the entry into force of the Directive was brought forward from **two years to one year**.

## Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 26/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 617 votes to 54 with 8 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on railway safety (recast).

The European Parliament's position at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

**Minimum provisions:** the Directive lays down minimum provisions, beyond which Member States may legislate only in accordance with the rules. The aim would be to **ensure the further improvement of safety of the Union's railways** and improved access to the market for rail transport services by:

- developing **common safety targets** and common safety methods with a view to greater harmonisation of national rules at a high safety level;
- introducing a **single safety certificate that is valid and recognised** in all Member States within the specified areas of operation;
- requiring the Agency to publish guidelines on railway safety and safety certification, including lists of examples of good practice, in particular for cross-border transport.

According to the Parliament, safety should be ensured not only for passengers and employees, including the staff of contractors, but also for users of level crossings and persons residing near railway lines.

**Role of actors in the rail system:** Members recommended that there be a **clear distinction between tasks** and responsibilities between the Agency and the national safety authorities.

The Agency would become a **one-stop shop** for safety certificates in the Union, using the valuable expertise, local knowledge and experience of national safety authorities. It should have **exclusive competence** to issue, renew, amend or revoke safety certificates for both railway undertakings and infrastructure managers.



Member States, the Agency and all actors of the rail system shall establish a **'just culture'** that ensures the consistent reporting in confidence of accidents, incidents and potential safety risks. Member States should support the Agency in its work of monitoring the development of railway safety on a Union level.

The Agency would set up and manage a **centralised database** containing all information submitted in relation to incidents and accidents.

**National rules:** Member States would be able to draft new national rules after the entry into force of the Directive **only in a certain number of cases**. After receipt of the draft national rule, the Agency should initiate a coordination process involving all national safety authorities in order to ensure the highest possible degree of harmonisation across the Union. The new national rule may not remain in force or enter into force if the Commission, upon a recommendation of the Agency, objects to it, providing a statement of reasons for its objection.

The Agency would establish and publish **common guidelines** for the adoption of new, or the amendment of existing, national rules.

**Safety management system:** this would ensure the control of all risks associated with the activity of the infrastructure manager or railway undertaking, including **proper qualification and training of staff**, as well as the supply of maintenance and material and the use of contractors.

The Commission shall establish, by means of **delegated acts**, elements of the safety management system, including an internally approved and communicated safety policy; qualitative and quantitative safety targets and procedures to reach those targets.

For **cross-border infrastructure**, and in particular for cross-border tunnels, specific safety management systems would be developed and improved in order to ensure the necessary coordination and preparedness of the competent emergency services on both sides of the border.

Infrastructure managers would also establish a **system for coordination** with managers in neighbouring countries with which the network is linked.

**Applications for single safety certificates:** Members considered that the Agency should take a decision on an application without delay and in any event **not more than three months** after receipt of the application.

Safety certificates for railway undertakings operating exclusively on an **isolated network** may also be granted by a national safety authority of those Member States which possess such a network. In such cases, the applicant may choose between applying to the Agency or to the national safety authorities of the Member States concerned.

**Maintenance of vehicles:** the Agency should set up and make public, and subsequently update without delay, a **register of certified entities in charge of maintenance**. When drafting or amending TSIs, the Agency should harmonise rules on minimum maintenance requirements in order to ensure the safety of the entire rail system.

No later than six months after this Directive comes into force, the Agency shall **identify railway components** that are critical for railway safety and shall develop a system that enables those components to be traced.

**National safety authority:** the amended text provided for the possibility of Member States also deciding to jointly establish a safety authority competent for their territories. The tasks of the national safety agency would include:

- monitoring compliance with **working, driving and rest time rules** for locomotive drivers in the railway companies and on the track;
- monitoring compliance with applicable rules on the safe maintenance and operation of **rail freight wagons** and other rolling stock;
- drawing up a **general emergency plan** for the rail network covering, in particular: (i) channels for communicating with victims' families following a serious accident; (ii) a system for providing care for victims following an accident, which will guide them in the complaints procedures.

**Transition period:** until four years after the date of entry into force, the national safety authorities may continue to grant safety certificates in accordance with the provisions of Directive 2004/49/EC.

The deadline for transposition and the entry into force of the Directive was brought forward from **two years to one year**.

## Railway safety. Recast. 4th Railway Package

2013/0016(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 railway safety (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 a **common approach to safety** in order to increase economies of scale for railway undertakings active across the Union, as well as to **simplify and reform the administrative procedures for issuing safety certificates**, thereby removing the fragmentation of rules across the Union.

More specifically, the objective of the safety Directive is to:

- amend the existing regulatory framework in order to put in place the migration towards an **EU single safety certificate** for railway undertakings and infrastructure managers, to be issued by the European Railway Agency;
- **clarify the roles and responsibilities of the various actors of the rail system** in order to ensure adequate risk control at all levels.

The main points in the Council position are as follows:

**Issuing of safety certificates:** the Council position introduces more flexibility in the respective responsibilities of the national safety authorities and the Agency in the safety certification process, with **additional safeguards granted to the national safety authorities** in specific circumstances.

The text sets up a **dual system in relation to the issuing of safety certifications**, where the Agency acts as a one-stop-shop through the setting-up of a new information and communications system for issuing safety certificates to railway undertakings involved in cross-border traffic, with national safety authorities keeping an important role in carrying out the assessments necessary to the issuing of certifications.

For railway undertakings involved in national transport only, a choice exists to submit a request for certification either to the Agency or to the national safety authority. However, in both cases, the procedure and the decision criteria remain the same.

**Roles and responsibilities of the different actors in the safety chain:** the text clarifies further the roles and responsibilities of the different actors of the rail system to improve the safety level, through the strengthening of the provisions on the respective role of the actors of the rail system in developing and improving railway safety.

**Infrastructure managers and railway undertakings** should have a major responsibility for the safe operation of the train and they should be obliged to establish safety management systems.

**Cooperation agreements between the Agency and the national safety authorities:** the Council proposes to put in place a new mechanism concerning the conclusion of cooperation agreements between the Agency and national safety authorities to facilitate the practical implementation of the new certification system.

According to this mechanism, the cooperation agreements between the Agency and the national safety authorities may include specific cooperation arrangements in cases of networks requiring specific expertise due to geographical or historical reasons. Where such networks are isolated from the rest of the Union's rail system, such cooperation arrangements may include the possibility for contracting tasks to the relevant national safety authorities when it is necessary to ensure efficient and proportionate allocation of certification.

**National rules in the field of safety:** the Council's position proposes the possibility of Member States: (i) maintaining national safety rules already notified under Directive 2004/49/EC in a number of cases; (ii) adopting new national rules in the field of safety.

The text clarifies the procedures to be applied for the notification of national rules, as well as on the assessment to be made by the Agency (up to a period of 8 months). In addition, it provides that, when the Agency does not react within the required time limits, Member States will adopt the new national rules or the existing ones will remain valid.

**Supervision activities of the national safety authorities:** the Council's position aims at guaranteeing that the new safety certification procedure **will not undermine the role of the national safety authorities** in their supervision tasks. It also provides that, if during supervision, a national safety authority identifies a serious safety risk, it may apply **temporary safety measures**, on which the national authority would have the final say in case of disagreement with the Agency.

**Liability of the Agency:** the Council's position aims to clarify the accountability of the Agency in the context of issuing safety certificates. A new recital recalls the legal framework of the Agency's liability, and underlines the importance of a full cooperation with Member States' authorities in case of railway accidents. Furthermore, the text provides that the Agency is fully responsible for the single safety certificate it issued.

**Appeal and arbitration procedure:** the Council's text reflects the possibility 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.

**Transitional provisions:** Member States may continue to apply the existing provisions of Directive 2004/49/EC until **three years after the date of entry into force of the Directive**, and Member States may extend this period for an additional year.

**Safety culture and occurrence reporting:** the Council's text covers the promotion of a culture of mutual trust, confidence and learning in which the staff of railway undertakings and infrastructure managers are encouraged to contribute to the development of safety. In addition, it provides for the possibility of **reporting confidentially** safety risks that are ignored. The Agency will be able to establish a tool that facilitates this exchange of information among the relevant actors.

Delegated acts/implementing acts: the Council's text provides that the common safety targets (CSTs ) and common safety methods (CSMs) are adopted as an implementing act through the examination procedure, with the Committee of Member States being kept informed on the Agency's works in a systematic and regular manner. Once the recommendation is delivered by the Agency, the Commission adopts the CSTs and CSMs as delegated acts.

## Railway safety. Recast. 4th Railway Package

2013/0016(COD) - 17/03/2016 - Committee recommendation tabled for plenary, 2nd reading

The Committee on Transport and Tourism adopted the recommendation for second reading contained in the report by Michael CRAMER (Greens/EFA, DE) on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council on railway safety (recast).

As Council's first reading position is in conformity with the agreement reached in the trilogues, **the committee recommended accepting it without further amendment.**

The committee also took note of a Commission statement annexed to this resolution **on explanatory documents**. In this statement, the Commission recalled that the European Parliament, the Council and the Commission that the information Member States supply to the Commission as regards the transposition of directives in national law 'must be clear and precise' in order to facilitate the achievement by the Commission of its task overseeing the application of Union law. In the present case, explanatory documents could have been useful to this end. It regretted that the final text does not contain provisions to this effect.

At the end of informal negotiations between Parliament and Council, an agreement was reached. The main achievements of the European Parliament are as follows:

- **the European Railway Agency (ERA) will play a key role in issuing safety certificates for railway undertakings:** the ERA will be competent to issue safety certificates for railway undertakings operating in more than one Member State. Railway undertaking operating within one Member State can choose to be certified either by the ERA or a national safety authority;
- **improved safety culture and occurrence reporting in railway undertakings and infrastructure managers:** this will encourage staff to report occurrences under conditions of confidentiality and enable railway industry to learn lessons and to improve the work practices. Moreover, there will be training programmes for staff, including arrangements on the physical and psychological fitness;
- Member States will be obliged to monitor compliance of train drivers with rules on **working, driving and rest periods**;
- the ERA may establish a **tool for exchange of information** on safety risks among relevant actors. This will further facilitate cross-border exchange of information in case there is a safety risk, e.g. if the same type of rolling stock is used in more than one Member State;
- improve **information policy** towards relatives of victims and improved coordination of emergency services;
- **the ERA will provide to investigative bodies with technical assistance** and secretariat for cooperation of investigating bodies. Investigating bodies would do "peer reviews" with the aim to monitor their effectiveness and independence. However, since ERA issues authorisations, it can't be directly involved in investigation due to potential conflicts of interest.