



# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2002/0024(COD) Procedure completed
European railway area: European Railway Agency for interoperability and safety. 2nd package Amended by <a href="#">2006/0274(COD)</a> Repealed by <a href="#">2013/0014(COD)</a>	
Subject 3.20.02 Rail transport: passengers and freight 3.20.02.01 Railway safety 8.40.08 Agencies and bodies of the EU	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>DELE</b> EP Delegation to Conciliation Committee		13/11/2003
		PSE <a href="#">SAVARY Gilles</a>	
	Former committee responsible		
	<b>RETT</b> Regional Policy, Transport and Tourism		21/02/2002
		PSE <a href="#">SAVARY Gilles</a>	
	<b>RETT</b> Regional Policy, Transport and Tourism		21/02/2002
		PSE <a href="#">SAVARY Gilles</a>	
	Former committee for opinion		
	<b>BUDG</b> Budgets		19/03/2002
	PSE <a href="#">KUCKELKORN Wilfried</a>		
<b>CONT</b> Budgetary Control	The committee decided not to give an opinion.		
<b>JURI</b> Legal Affairs and Internal Market	The committee decided not to give an opinion.		
<b>ITRE</b> Industry, External Trade, Research, Energy	The committee decided not to give an opinion.		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">2578</a>	26/04/2004
	<a href="#">Environment</a>	<a href="#">2556</a>	22/12/2003
	<a href="#">Agriculture and Fisheries</a>	<a href="#">2516</a>	25/06/2003
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2499</a>	27/03/2003
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2472</a>	05/12/2002

## Key events

24/01/2002	Legislative proposal published	<a href="#">COM(2002)0023</a>	Summary
27/02/2002	Committee referral announced in Parliament, 1st reading		
25/03/2002	Debate in Council	<a href="#">2420</a>	
03/10/2002	Debate in Council	<a href="#">2452</a>	
27/11/2002	Vote in committee, 1st reading		Summary
27/11/2002	Committee report tabled for plenary, 1st reading	<a href="#">A5-0441/2002</a>	
05/12/2002	Debate in Council	<a href="#">2472</a>	
14/01/2003	Debate in Parliament		
14/01/2003	Decision by Parliament, 1st reading	<a href="#">T5-0007/2003</a>	Summary
25/06/2003	Council position published	<a href="#">08558/2/2003</a>	Summary
03/07/2003	Committee referral announced in Parliament, 2nd reading		
01/10/2003	Vote in committee, 2nd reading		Summary
01/10/2003	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A5-0323/2003</a>	
21/10/2003	Debate in Parliament		
23/10/2003	Decision by Parliament, 2nd reading	<a href="#">T5-0456/2003</a>	Summary
22/12/2003	Parliament's amendments rejected by Council		Summary
16/03/2004	Formal meeting of Conciliation Committee		
16/03/2004	Final decision by Conciliation Committee		Summary
16/03/2004	Report tabled for plenary, 3rd reading	<a href="#">A5-0244/2004</a>	
23/03/2004	Joint text approved by Conciliation Committee co-chairs	<a href="#">3640/2004</a>	
21/04/2004	Debate in Parliament		
22/04/2004	Decision by Parliament, 3rd reading	<a href="#">T5-0358/2004</a>	Summary
26/04/2004	Decision by Council, 3rd reading		
29/04/2004	End of procedure in Parliament		
30/04/2004	Final act signed		
21/06/2004	Final act published in Official Journal		

Technical information	
Procedure reference	2002/0024(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by <a href="#">2006/0274(COD)</a> Repealed by <a href="#">2013/0014(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 071-p1
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/20328

Documentation gateway					
Legislative proposal		<a href="#">COM(2002)0023</a> <a href="#">OJ C 126 28.05.2002, p. 0323 E</a>	24/01/2002	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES1028/2002</a> <a href="#">OJ C 061 14.03.2003, p. 0131</a>	18/09/2002	ESC	
Committee of the Regions: opinion		<a href="#">CDR0097/2002</a>	10/10/2002	CofR	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0441/2002</a>	27/11/2002	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0007/2003</a> OJ C 038 12.02.2004, p. 0016-0135 E	14/01/2003	EP	Summary
Council statement on its position		<a href="#">10587/1/2003</a>	20/06/2003	CSL	
Council statement on its position		<a href="#">10587/2003</a>	20/06/2003	CSL	
Council position		<a href="#">08558/2/2003</a> <a href="#">OJ C 270 11.11.2003, p. 0048-0059 E</a>	25/06/2003	CSL	Summary
Council statement on its position		<a href="#">10840/2003</a>	25/06/2003	CSL	
Commission communication on Council's position		<a href="#">SEC(2003)0754</a>	30/06/2003	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A5-0323/2003</a>	01/10/2003	EP	
Text adopted by Parliament, 2nd reading		<a href="#">T5-0456/2003</a> OJ C 820 01.04.2004, p. 0320-0560 E	23/10/2003	EP	Summary
Commission opinion on Parliament's position at 2nd reading		<a href="#">COM(2003)0719</a>	26/11/2003	EC	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		<a href="#">A5-0244/2004</a>	16/03/2004	EP	
Joint text approved by Conciliation Committee co-chairs		<a href="#">3640/2004</a>	23/03/2004	CSL/EP	
Text adopted by Parliament, 3rd reading		<a href="#">T5-0358/2004</a> <a href="#">OJ C 104 30.04.2004, p.</a>	22/04/2004	EP	Summary

## Additional information

European Commission

[EUR-Lex](#)

## Final act

[Regulation 2004/881](#)  
[OJ L 164 30.04.2004, p. 0001](#)

[Corrigendum to final act 32004R0881R\(01\)](#)  
[OJ L 164 30.04.2004, p. 0001-0046](#) Summary

## European railway area: European Railway Agency for interoperability and safety. 2nd package

PURPOSE : to establish a European Railway Agency.

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

CONTEXT : This proposal is part of a package to revitalise the Community railway system by creating an integrated European railway system. The directive is linked to other proposals in this same package, in particular the proposal to establish a common regulatory framework for railway safety and the proposal on amending directives on interoperability of rail systems. It applies a gradual approach to harmonisation and the development of common principles, taking into account the great differences that exist between the Member States. The other measures in the package relate to safety, amendments of the directives on interoperability, and the integration of the rail freight market.

CONTENT : Creation of an integrated railway area in Europe entails putting in place common technical regulations monitored, as in other sectors of the economy, by the public authorities. As a first step, the Community established a framework for progressively setting standards on the interoperability of rail systems (Directives 96/48/EC and 2001/16/EC).

This second package of measures on rail transport is designed to expand this approach, by adding the safety aspects, extending the work on interoperability to new areas and putting it all into a comprehensive, clear and consistent context. (See COD/2002/0022 and COD/2002/0023.)

In order to perform these tasks and prepare the individual proposals, a balance must be struck between, on the one hand, the public authorities, which must be subject to democratic control, and, on the other, the players on the market, whose expertise lies at the heart of the process. The balance existing, to one degree or another, in the Member States must also be maintained at European level. To achieve this, it is essential to create a centre of expertise at Community level alongside the public authorities to give guidance on this process. The most appropriate instrument for performing these technical tasks with experts from the industry is an Agency.

This proposal envisages the creation of a European Railway Agency. The objective of the Agency will be to contribute, on technical matters, to implementation of the Community legislation aiming at enhancing the level of interoperability of railway systems and at developing a common approach to safety on the European railway system, in order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety. The Agency must take full account of the process of enlargement of the European Union and of the specific constraints relating to rail links with third countries.

To this end it will adopt recommendations addressed to the Commission and opinions issued to the Commission or to the authorities concerned in the Member States. It is foreseen that the Agency will be operational towards 2005.

With a view to application of the Directive on railway safety concerning the harmonisation of safety certificates, the Agency must recommend a harmonised format for safety certificates and a harmonised format for applications for safety certificates.

There are provisions for the structure and management of the Agency. The Executive Director should preferably be appointed by the administrative board on a proposal from the Commission.

The proposal goes on to suggest a budget allocation large enough for the Agency to hire its personnel, to carry out its tasks and to function smoothly. For the first year this annual budget can be estimated at approximately EUR 5 million, increasing to around EUR 14.5 million when the Agency is fully operational. The Agency's budget will be financed mainly by a contribution from the Community. The Agency may charge fees for its publications or for its training activities or other services. However, the amount from these fees will remain minor in relation to the total budget of the Agency.

The number of staff required is estimated at around 100 persons, employed on temporary contracts with a maximum duration of five years.

## European railway area: European Railway Agency for interoperability and safety. 2nd package

The committee adopted the report by Gilles SAVARY (PES, F) amending the proposal under the 1st reading of the codecision procedure. It stipulated that the European Railway Agency should be "placed under the direct responsibility of the European Union" and that it should have "sole responsibility in the context of the functions and powers assigned to it by law". To avoid the risk of dual responsibilities and parallel sets of rules, the committee therefore specified that the allocation of similar functions and powers to national offices should be ruled out. It added that one of the objectives assigned to the Agency should be to help implement Community legislation aimed at improving the competitiveness of the railway sector and that the Agency must operate transparently and wholly independent of the interested parties. The committee also said that the candidate countries should be involved in the Agency's work from the outset. The report contained a number of technical and

drafting amendments relating to the administrative functioning and role of the Agency in various areas. It also amended the provisions relating to the duties and powers of the Executive Director to bring them in line with those of the Director of the European Maritime Safety Agency (EMSA). Similarly, the provisions on inspections were amended so as to bring them into line with those of the EMSA. Another amendment sought to ensure that the European Parliament was involved in the appointment or dismissal of the Executive Director. The committee also adopted an amendment stipulating that the regulation should enter into force only once a definitive seat for the Agency had been established. If no such decision had been taken within one year of the legislation being adopted, Brussels should be made the provisional headquarters and the Agency should start work there. ?

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The European Parliament adopted a resolution drafted by Gilles SAVARY (PES, France) making several amendments to the Commission's proposal. (Please refer to the summary dated 27/11/02.) In addition, Parliament made the following points: - organisations representing the sector should include the representatives of railway undertakings, of railway infrastructure managers, of the staff of railway undertakings, of the railway industries and of rail freight users; - on the basis of a mandate from the Commission, the Agency will implement all the provisions on observation, statistical collection, databases and information on rail transport contained in Community legislation on the railway sector; - there are additional provisions on working parties and the creation of advisory committees; - a proposal for the location of the Agency must include, if possible, a requirement for a financial contribution from the host Member State.?

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The Council adopted, by qualified majority, the "Second Railway Package", the Belgian, French and Luxembourg delegations voting against, establishing a single market for rail transport service. This package includes the following legal texts: - the Directive on the interoperability of the trans-European rail system; - the Directive on safety on the Community's railways; - the Directive on the development of the Community's railways (market access); - the Regulation establishing a European Railway Agency. The Council recognises that a European Railway Agency can provide a very useful input into the legislative process and other aspects relating to the revitalisation of the European railways. Against this background, the changes introduced in the Council's common position do not significantly alter the substance of the Commission's proposal. These changes concern the tasks and responsibilities of the Agency, the consultation of other parties, the composition of its Working Parties and the Administrative Board, and the working languages. In several instances, the Council has chosen to draw on similar provisions in the Regulations establishing other Community bodies such as the European Maritime Safety Agency (EMSA) and the European Aviation Safety Agency (EASA). In particular, the Council has accepted Article 3 (Composition of the working parties) Parliament's ideas concerning representation of the sector on the Agency's Administrative Board, adding passenger representation, and in the working parties. It has, however, spelt out the criteria for their representation. The Council has not on the other hand accepted the Commission's proposal for the composition of the Administrative Board and, as in the other transport sector agencies, has decided that there should be one representative for each Member State. With regard to the direct participation of rail workers' representatives in the working parties, the Council has preferred to maintain the Commission's initial proposal, which provides for a consultation mechanism. The arrangements for such consultation, both for the social partners and for customers' and passengers' representatives have, however, been strengthened. The Council's text is also acceptable given that the consultation arrangements have been strengthened. The Council has not accepted the proposal for two advisory committees, for the national safety authorities and for the investigative bodies, which the Commission had rejected since the new working of enables these bodies to take part directly in work carried out by the Agency. Furthermore, the Agency still has the task of networking these bodies in order to facilitate their cooperation. With regard to the Agency's working languages, the Council has taken over the text in force for the Aviation Safety Agency and not the solution proposed by Parliament. Lastly, as regards the new provisions introduced by the Council, it has expressed the wish to extend the Agency's powers as regards the working conditions of staff having safety duties.?

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The Commission supports the texts of the common position. However, as regards the Agency, the Commission would like to draw attention to the forthcoming adoption of the standard provisions for all agencies following the entry into force of the new Financial Regulation. The Commission entered the following statements in the minutes of the Transport Council meeting of 28 March 2003: - The Commission intends to present by the end of 2003 to the European Parliament and the Council a proposal relating to the introduction of a European driving licence for train drivers. Besides, the Commission fully supports and encourages the work in progress in the framework of the European Social Dialogue by the social partners, in accordance with Article 139 of the Treaty, concerning the harmonisation of driving times and rest periods for train drivers and staff accompanying trains; - The Commission declares that the final budgetary needs for the European Railway Agency depend on a clear agreement on the competencies of this Agency between the Council and the European Parliament. These needs, of which a first assessment has been made in the financial statement attached to the legislative proposal, will have to be translated in the annual budgetary requests tabled by the Commission to the Council and the Parliament acting as the budgetary authority. A precise estimate of these needs for 2004-2006 can only be made once the codecision procedure has been completed; - The arrangements laid down in paragraphs 4 and 5 of Article 8 (National Safety Rules) of the Directive on safety do not constitute a system of prior authorisation.?

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The committee adopted the report by Gilles SAVARY (PES, F) amending the Council's common position under the 2nd reading of the codecision procedure. It reinstated a number of amendments adopted by Parliament at 1st reading. For example, it again stipulated that the Agency should have sole responsibility "in the context of the functions and powers assigned to it by law" and that the allocation of similar functions and powers to national offices should therefore be ruled out. Other retabled amendments sought to ensure that all actors in the rail industry, including rail staff unions, would be involved in the operation of the Agency and introduced additional provisions on working parties and the creation of advisory committees. The committee also tabled a number of new amendments of a mainly technical nature, incorporating standard provisions on the organisation of agencies following the adoption of the new framework financial regulation in 2002. ?

## European railway area: European Railway Agency for interoperability and safety. 2nd package

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The European Parliament adopted a resolution drafted by Gilles SAVARY (PES, France) and made several amendments to the common position. (Please see the document dated 01/10/03.) In addition, the Agency must seek to put in place a system for the accreditation of training facilities. This system must take into account general training and sectoral training.?

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The European Parliament wishes to defend the Commission's initial proposal designed to ensure balanced representation of the Council and the Commission as well as of the various interested parties on the Agency's administrative board. With a view to improving the transparency and openness of the Agency's activities, Parliament wants representatives of workers' organisations from the industry to participate in the Agency's working parties on subjects directly related to the working conditions, health and safety of staff. It also wants wider consultation of the social partners on the proposals made by the Agency. Parliament also includes the standard financial and budgetary provisions resulting from the entry into force of the new Financial Regulation on 1 January 2003, which it had not been possible to take into account during the work on the common position<sup>1</sup>. It also incorporates the standard provisions on transparency. The Commission supports all these amendments. On the other hand, the Commission cannot support a certain amendment as it presents legal difficulties in respect of the division of responsibilities between the Agency and the various national authorities. Nor can the Commission accept an amendment which would introduce rigidity and bureaucracy in relations between the Agency, the national safety authorities and the enquiry bodies, while the Regulation already provides that one of the Agency's tasks is to facilitate networking and cooperation between these bodies. Other amendments concern driver qualifications. It is not possible to incorporate these amendments, as the Commission is preparing a specific proposal on this subject for the end of the year. Finally, the Commission is unable to include the amendment concerning the Agency's working languages, since it believes that the Agency should simply use the working languages that are already current among professionals in the industry.?

## European railway area: European Railway Agency for interoperability and safety. 2nd package

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The Council did not approve the European Parliament's second reading amendments regarding the four proposals (3 Directives and 1 Regulation) on the Community's railways. Consequently the Conciliation Committee is convened in accordance with Article 251(3) of the TEC.?

## European railway area: European Railway Agency for interoperability and safety. 2nd package

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The Conciliation Committee reached agreement on the regulation establishing a European Railway Agency. The main points of the compromise are as follows: - composition of the Administrative Board: after long negotiations the Parliament delegation reluctantly agreed that the Administrative Board of the Agency would consist of one representative of each Member State in addition to the four representatives of the Commission and six representatives (without voting rights) of the stakeholders of the sector, including industry and social partners. To meet Parliament's concerns, it was agreed that the Commission shall present in 5 years time a proposal to revise the makeup of the board in the context of the overall review of the framework for regulatory agencies that is at present in progress; - participation of workers' organisations in the working parties: Council accepted Parliament's proposal that representatives from workers' organisations would participate in relevant working parties preparing recommendations on safety measures, safety certificates, interoperability, certification of maintenance workshops or vocational competences whenever these recommendations would have a direct impact on the working conditions, health and safety of workers; - budgetary arrangements: Council accepted all Parliament's proposals for more efficient and transparent budgetary arrangements and greater transparency in the financial management of the Agency. The regulation also contains provisions for linking the implementation of the Agency's budget to the general EU discharge procedure for each financial year. ?

## European railway area: European Railway Agency for interoperability and safety. 2nd package

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The European Parliament approved the agreements in conciliation on the second rail package. (Please refer to the previous summary).?

## European railway area: European Railway Agency for interoperability and safety. 2nd package

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PURPOSE: to establish a European Railway Agency.

LEGISLATIVE ACT: Regulation 881/2004/EC of the European Parliament and of the Council establishing a European Railway Agency (Agency Regulation). (Corrigendum of the Regulation published in OJ L164 of 30 April 2004).

CONTENT: this Regulation 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.

It should be stressed that rail's share of the freight market has continued to decline and is now under 8%. In half of the EU countries the volume of goods transported by rail diminished, making a total decline of one per cent between 2002 and 2003. Equally, the opening of the

railway freight market is too slow and new entrants share only 3 to 4% of the market.

In order to promote the establishment of a European railway area without borders and to help revitalise the railway sector while reinforcing its essential advantages in terms of safety, this Agency shall contribute to the development of a genuine European railway culture and form an essential tool of dialogue, consultation and exchange between all the actors in the railway sector, having due regard for their individual competences.

It shall provide technical support for the interoperability and safety work. Its remit will be, firstly, to develop common safety standards and devise and manage a system for monitoring safety performance and, secondly, to manage in the long-term the system for establishing, registering and monitoring the technical specifications for interoperability.

The Agency's Administrative Board shall be composed of one representative of each Member State and four representatives of the Commission, as well as of six representatives, without the right to vote, the latter representing at European level the following groups: railway undertakings; infrastructure managers; railway industry; worker unions; passengers; freight customers.

This agency, with a staff of around 100, will have a pivotal role in moving forward the work on approximating the technical railway systems. It will be independent, but work closely with experts in the field. The agency will not have decision-making powers as such, but will make proposals to the Commission. These proposals would be adopted by the Commission through committee procedure, as is already the case in the context of interoperability.

More specifically, the objective of the Agency shall be to contribute, on technical matters, to the implementation of the Community legislation aimed at improving the competitive position of the railway sector by enhancing the level of interoperability of railway systems and at developing a common approach to safety on the European railway system, in order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.

In pursuing these objectives, the Agency shall take full account of the process of enlargement of the European Union and of the specific constraints relating to rail links with third countries.

The Agency shall have sole responsibility in the context of the functions and powers assigned to it.

On the issue of safety certificates, the Regulation stipulates that in order to facilitate the procedures for issuing safety certificates to railway undertakings, it is essential to develop a harmonised format for safety certificates and a harmonised format for applications for safety certificates. Therefore, the Agency shall draft and recommend a harmonised format for safety certificates, including an electronic version, and a harmonised format for applications for safety certificates, including a list of the essential details to be provided.

As regards the monitoring of safety performance, the Agency shall establish a network with the national authorities responsible for safety and the national authorities responsible for the investigations provided for by the Railway Safety Directive in order to define the content of the common safety indicators listed in Annex I to that Directive and to collect relevant data on railway safety. On the basis of the common safety indicators, national reports on safety and accidents and its own information, the Agency shall submit every two years a report on safety performance, which shall be made public. The first such report shall be published during the Agency's third year of operation. The Agency shall draw on the data collected by Eurostat and shall cooperate with Eurostat to avoid any duplication of work and to ensure methodological consistency between the common safety indicators and the indicators used in other modes of transport.

The Agency shall be operational within 24 months of the entry into force of this Regulation.

Five years after the Agency takes up its duties, the Commission shall carry out an evaluation of implementation of this Regulation, the results obtained by the Agency and its working methods. This evaluation shall take account of the views of the representatives of the railways sector, of the social partners and of customers' organisations. The findings of the evaluation shall be made public. The Commission shall propose, if necessary, an amendment to this Regulation. In that context, the Commission shall, if appropriate, present a proposal for revision of the provisions of this Regulation in light of developments in respect of regulatory agencies, in accordance with the procedure laid down in Article 251 of the Treaty. The European Parliament and Council shall examine this proposal and in particular consider whether the composition of the Administrative Board needs to be revised, in accordance with the general framework to be adopted for regulatory agencies.

ENTRY INTO FORCE : 1 May 2004.