



# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2006/0272(COD) Procedure completed
Safety on the Community's railways (Railway Safety Directive) Amending Directive 2004/49/EC Repealed by	<a href="#">2002/0022(COD)</a> <a href="#">2013/0016(COD)</a>
Subject 3.20.02.01 Railway safety	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>TRAN</b> Transport and Tourism		10/03/2008
		ALDE <a href="#">COSTA Paolo</a>	
	Former committee responsible		
	<b>TRAN</b> Transport and Tourism		23/01/2007
		ALDE <a href="#">COSTA Paolo</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">2910</a>	01/12/2008
	<a href="#">Environment</a>	<a href="#">2856</a>	03/03/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2835</a>	29/11/2007
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2821</a>	01/10/2007
European Commission	Commission DG	Commissioner	
	Energy and Transport	TAJANI Antonio	

Key events			
17/01/2007	Committee referral announced in Parliament, 1st reading		
11/09/2007	Vote in committee, 1st reading		Summary
26/09/2007	Committee report tabled for plenary, 1st reading	<a href="#">A6-0346/2007</a>	
01/10/2007	Debate in Council	<a href="#">2821</a>	Summary
28/11/2007	Debate in Parliament		
29/11/2007	Results of vote in Parliament		
29/11/2007	Decision by Parliament, 1st reading	<a href="#">T6-0557/2007</a>	Summary
13/03/2008	Committee referral announced in Parliament, 2nd reading		
29/05/2008	Vote in committee, 2nd reading		Summary

08/07/2008	Debate in Parliament		
09/07/2008	Decision by Parliament, 2nd reading	<a href="#">T6-0340/2008</a>	Summary
01/12/2008	Act approved by Council, 2nd reading		
16/12/2008	Final act signed		
16/12/2008	End of procedure in Parliament		
23/12/2008	Final act published in Official Journal		

### Technical information

Procedure reference	2006/0272(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2004/49/EC <a href="#">2002/0022(COD)</a> Repealed by <a href="#">2013/0016(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 071-p1
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/60435

### Documentation gateway

Legislative proposal	<a href="#">COM(2006)0784</a>	13/12/2006	EC	Summary
Document attached to the procedure	<a href="#">SEC(2006)1641</a>	13/12/2006	EC	
Document attached to the procedure	<a href="#">SEC(2006)1642</a>	13/12/2006	EC	
Committee draft report	<a href="#">PE388.560</a>	24/05/2007	EP	
Amendments tabled in committee	<a href="#">PE390.643</a>	24/07/2007	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0346/2007</a>	26/09/2007	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T6-0557/2007</a>	29/11/2007	EP	Summary
Commission response to text adopted in plenary	SP(2007)6527	18/12/2007	EC	
Council position	<a href="#">16133/3/2007</a>	03/03/2008	CSL	Summary
Commission communication on Council's position	<a href="#">COM(2008)0137</a>	07/03/2008	EC	Summary
Committee draft report	<a href="#">PE404.399</a>	02/04/2008	EP	
Amendments tabled in committee	<a href="#">PE404.805</a>	24/04/2008	EP	
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0223/2008</a>	04/06/2008	EP	
Text adopted by Parliament, 2nd reading	<a href="#">T6-0340/2008</a>	09/07/2008	EP	Summary
Commission opinion on Parliament's position at 2nd reading	<a href="#">COM(2008)0681</a>	30/10/2008	EC	Summary

Draft final act	<a href="#">03668/2008/LEX</a>	16/12/2008	CSL
<b>Additional information</b>			
National parliaments	<a href="#">IPEX</a>		
European Commission	<a href="#">EUR-Lex</a>		
<b>Final act</b>			
<a href="#">Directive 2008/110</a> <a href="#">OJ L 345 23.12.2008, p. 0062</a> Summary			

## Safety on the Community's railways (Railway Safety Directive)

**PURPOSE:** to simplify the Community procedure for the certification of railway rolling stock.

**PROPOSED ACT:** Directive 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 the Rail Interoperability Directives (96/48/EC, 2001/16/EC, 2004/50/EC), Regulation 881/2004/EC on the European Railway, and the Railway Safety Directive (2004/49/EC). This last mentioned amendment is the subject of the present proposal.

**CONTENT:** the proposal seeks to simplify the procedure for the certification of railway rolling stock and 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 extend the mission of the European Railway Agency (see [COD/2006/0274](#)). 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 particular proposal concerns amendments to Directive 2004/49/EC on safety on the Community's railways. The main thrust of the amendments relate to drawing up a procedure, at Community level, for the mutual recognition of rolling stock.

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.

To begin with, 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.

Secondly, 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.

In summary, the Commission is proposing the following amendments:

Certification of existing rolling stock (new Article 14 and new Annex VI):

- Rolling stock that has been authorised to enter into service in one Member State will be the subject of authorisation to enter into service in any other Member State .
- National safety authorities will not be allowed to question an application for authorisation ? unless the safety authority is able to demonstrate the existence of a real safety risk.
- Strict deadlines are imposed for approval of an authorisation.
- All the technical and safety rules, in force in each of the Member States, will be classified under three groups. The rules will be collated and codified by the European Railway Agency and put into a reference document. (See also summary of COD/2006/0274). The list of parameters and the way in which the reference tool is to be made are outlined in a new Annex VI. The list of parameters include, inter alia, maintenance book; operational log book; on-board supply equipment and electromagnetic compatibility impact; load gauge etc. Of the three groups:
  - the first group will cover international rules along with any national rules that been declared equivalent and in respect of which a check carried out in a single Member State is sufficient in railway safety terms;
  - the second group will cover all other national rules as well as rules that have not yet been classified;
  - the third group will cover the rules that are needed to ensure technical compatibility between rolling stock featured in the authorisation application and the envisioned infrastructure.

Relationship between the railway companies and the wagon keepers (new Article 14 a):

The new COTIF Convention has brought in new rules governing the use of vehicles. Under the new arrangements wagon keepers are no longer obliged to register their wagons with a railway undertaking and the Railway Safety Directive needs to be amended accordingly. In

particular it needs to be amended in order to define the concept of 'keeper' and to specify the relationship between keepers and railway undertakings.

## Safety on the Community's railways (Railway Safety Directive)

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The Committee on Transport and Tourism adopted - at 1<sup>st</sup> reading under the codecision procedure and subject to amendments - the report by Paolo COSTA (ALDE, IT) on the proposal amending Directive 2004/49/EC on safety on the Community's railways.

The main amendments adopted in committee are as follows:

**Objectives:** MEPs have specified that the Directive aims to improve safety on the Community's railways by contributing to the achievement of the objectives of Directive 89/391/EEC on improving the safety and health of workers at work and laying down specific provisions in order to minimise the risks of railway operation for staff.

**Definitions:** MEPs consider that the imperatives of safety should not be used as an excuse to hinder the approval of rolling stock and the creation of new railway undertakings. To this end, a better definition of 'national safety rules' has been proposed in order to give clarity to the fulfilment of the essential requirements. The amendment supplements the existing definition on national safety rules under Directive 2004/49/EC by determining the different elements that should be covered when issuing national safety rules.

**Common Safety Targets (CST):** according to the MEPs, before drafting or revising CSTs, a cost-benefit analysis must demonstrate that the expected effect of the development of CSTs shall improve the level of transport safety and the optimum use of the railway system.

**Safety certificates:** the report proposes to introduce a new wording ensuring that high level of safety instead of "complete safety" is provided for the services of railway network. For MEPs, there is no complete safety in absolute terms, requesting such condition could create obstacles.

**Transfer of Article 14 and its measures on interoperability:** provisions included into the new Article 14 - Placing in service of existing stock - as well as those of 14a - Classification of the national rules - and Annex - reference document - are transferred to the Interoperability directive for reasons of clarity and coherence of the text, thus simplifying the regulatory environment and avoiding the spread of the community rules.

**Maintenance of the rolling stock:** MEPs included an amendment clarifying that whenever a vehicle is placed in service, a keeper shall be designated for each vehicle. The keeper shall be responsible for the maintenance of the vehicle. A railway undertaking may be a keeper. The amendment also stipulates that the railway undertaking shall be responsible for the operating safety of vehicles placed in service on the network. Where a railway undertaking uses vehicles for which it is not the keeper, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force including maintenance rules in accordance with the TSI provisions. In the event of a change of keeper, the previous keeper shall provide all the maintenance files in his possession to the new keeper before the change is recorded in the National Vehicle Register. The Commission shall establish, by 1 January 2010, a mandatory maintenance certification system for keepers of wagons and other vehicles based on a recommendation from the Agency.

**National Safety Authority (decision criteria):** where negative decisions are taken by the Safety Authorities in the Member States regarding the safety certificates or safety authorisations, applicants should have the possibility of requesting a technical opinion from the Agency.

**Comitology:** MEPs introduced a reference to the new regulatory procedure with scrutiny. The amendment makes the necessary adjustments in line with the new comitology procedure and provides additional transparency for the adoption of the revision of the relevant measures in this proposal.

**Annexes:** the relevant part of the Annex which set out the parameters to be checked in conjunction with the placing in service of existing stock and the classification of the national rules is transferred to the new Interoperability directive.

## Safety on the Community's railways (Railway Safety Directive)

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The Council reached a general approach on a draft directive on the safety of the Community's railways.

The proposal on amending the Safety Directive is part of a set of proposals adopted in December 2006 which aim to improve cross-acceptance of railway vehicles in the Community.

Supporting the principle of cross-acceptance, the Council agreed on three main changes to the Commission proposal:

- 1) the Council transfers all provisions on authorisation of railway vehicles from the safety directive to the interoperability directive. The former deals with new or upgraded parts of the Community rail system and the latter concerns vehicles already in use. As a result, all provisions on authorisation are incorporated in a single legislative act;
- 2) the text agreed by the Council specifies the roles and responsibilities of the actors involved in railway operations. In order to enable railway undertakings to identify who is responsible for the wagons connected to its trains, the Council introduces the obligation that to each wagon "a keeper" must be assigned. Moreover, this keeper needs to be registered as such in a National Vehicle Register;
- 3) the Council proposes to set up a certification system for maintenance. The certificates issued will be valid in the whole Community and guarantee that the certified entity meets the maintenance requirements of this directive for any vehicle of which it is responsible.

The European Parliament's first-reading opinion is scheduled for adoption in November 2007.

## Safety on the Community's railways (Railway Safety Directive)

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The European Parliament adopted a resolution drafted by Paolo COSTA (ALDE, IT) and made some amendments to the proposal amending Directive 2004/49/EC on safety on the Community's railways. These amendments transferred the rolling stock provisions of Article 14 on the placing in service of railway vehicles to the Interoperability Directive. They also introduced the regulatory procedure with scrutiny to some

provisions and introduced new provisions on the maintenance of vehicles.

The main amendments are as follows:

**Objectives:** Parliament added that the Directive aims to improve safety on the Community's railways by contributing to the achievement of the objectives of Directive 89/391/EEC on improving the safety and health of workers at work and laying down specific provisions in order to minimise the risks of railway operation for staff.

**Definitions:** 'national safety rules' are defined as all rules laying down railway safety requirements imposed at Member State level in order to ensure that the rail system, the subsystems, the constituents, including the interfaces, meet the essential requirements and are applicable to more than one railway undertaking or one or more infrastructure managers, irrespective of the body issuing them. It added a definition of "essential requirements", meaning all the conditions set out in Annex III of Interoperability Directive, which must be met by the rail system, the subsystems, and the interoperability constituents, including interfaces.

**Keeper:** Parliament stated that this must be a person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the National Vehicle Register referred to in the Interoperability Directive.

**Common Safety Targets (CST):** a new clause states that before drafting or revising CSTs, a cost-benefit analysis must demonstrate that the expected effect of the development of CSTs shall improve the level of transport safety and the optimum use of the railway system.

**Safety certificates:** the report introduces new wording ensuring that high level of safety instead of "complete safety" is provided for the services of railway network.

**Transfer of Article 14 and its measures on interoperability:** provisions included into the new Article 14 - Placing in service of existing stock - are transferred to the Interoperability Directive. Article 14a on classification of the national rules is deleted. Parliament stated that railway vehicles that have been authorised to be placed in service in one Member State shall be subject to a further authorisation prior to being placed in service in any other Member State pursuant to the requirements laid down in the Interoperability Directive.

**Maintenance of the rolling stock:** these provisions are amended. Whenever a vehicle is placed in service, a keeper shall be designated for each vehicle. The keeper shall be responsible for the maintenance of the vehicle. A railway undertaking may be a keeper. The railway undertaking shall be responsible for the operating safety of vehicles placed in service on the network. In order to demonstrate, in the context of safety certification, that the rolling stock is being maintained in accordance with the requirements in force, the railway undertaking shall give details of the keepers and shall provide documentation explaining the procedures applied by those keepers in carrying out such maintenance. Where a railway undertaking uses vehicles for which it is not the keeper, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force including maintenance rules in accordance with the TSI provisions. In the event of a change of keeper, the previous keeper shall provide all the maintenance files in his possession to the new keeper before the change is recorded in the National Vehicle Register. The Commission shall establish, by 1 January 2010, a mandatory maintenance certification system for keepers of wagons and other vehicles based on a recommendation from the Agency. The measures will be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 27(2b).

**Decisions subject to opinions by the Agency:** the Agency may be requested, by an applicant, to provide a technical opinion on a decision in the negative taken by a safety authority as regards the granting of a safety certificate or a safety authorisation.

**Comitology:** Parliament made several amendments to ensure that certain measures are aligned to the regulatory procedure with scrutiny. This includes the revision of Annex I with a view to incorporating the CSI common definitions and the common methods for calculating the cost of accidents. It also includes the revision of CSMs at regular intervals, taking into account the experience gained from their application and the global development of railway safety and the obligations on Member States, and the second set of draft CSTs. On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 27 (2b).

## Safety on the Community's railways (Railway Safety Directive)

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The Council considers that the three legislative proposals on i) recasting the interoperability Directives for conventional and high-speed rail ([COD/2006/0273](#)); ii) amending the Railway Safety Directive and the iii) the European Railway Agency Regulation ([COD/2006/0274](#)), can bring about important improvements to the technical part of the regulatory framework for European railways.

To recall, both Council and Parliament succeeded in reaching an agreement, at first reading on the proposal for a Railway Interoperability Directive so that Council can adopt the proposed act thus amended. However, alignment could not be found on the Railway Safety Directive and the Agency Regulation. As a result, the Council adopted common positions on both proposals, taking due account of the amendments which Parliament adopted at its first reading.

The Council made three main changes to the common position and has made an exemption for Cyprus and Malta. In summary, the three main changes are as follows:

1) Integration of all provisions on authorisation procedures in one single act:

In view of the drive for better regulation and in the interests of simplicity, the common position incorporates all provisions regarding authorisations for placing vehicles in service, into one single legal act. Bearing this in mind, Article 14, the new Article 14 (a) and the new Annexes that amend the Railway Safety Directive, have been transferred to the recasted Railway Interoperability Directive. This initiative has the approval of the European Parliament.

2) Clarification of roles and responsibilities with regard to maintenance:

The Council has put forward a new definition of 'keeper' and 'entity in charge of maintenance'. These have been done in order to take account of the new Convention concerning International Carriage by Rail (COTIF). In its definition, which is aligned as much as possible to that of COTIF's, the Council has sought to establish a clear connection between the keeper and its vehicle through the obligation for keepers to register as such in a 'National Vehicle Register'. Under the terms of the common position, entities in charge of maintenance must ensure that vehicles are safe to run. Each vehicle, before being placed on the market or used in a network, will require an 'entity of maintenance' assigned to it. Further each entity will need to be registered in a National Vehicle Register. In exceptional circumstances only may a National

Safety Authority decide to derogate from its obligations to assign an entity in charge of maintenance of vehicles. Any such derogation will need to be published by the authority in its annual report. Through this system the Council is seeking to allow railway undertakings and infrastructure managers to easily identify who is in charge of maintenance for the vehicles they operate.

### 3) Maintenance certification:

The Council has decided to strengthen provisions concerning maintenance certification. It has therefore asked that a maintenance certification system for keepers be adopted, at least one year after the entry into force of the proposal amending the Railway Safety Directive. This change is based on a Recommendation originating from the European Railway Agency. The common position has been framed in such a way that the certificate will be valid throughout the Community and that it will guarantee the certified entity meeting the maintenance requirements of the Railway Safety Directive for any vehicle of which it is charge.

Entities in charge of maintenance may participate in this certification system on a voluntary basis. With a view to clarifying that no new requirements are introduced for railway undertakings and infrastructure managers, the Council specifies that the safety management system, which railway undertakings and infrastructure managers already need to establish under the current Railway Safety Directive, includes the maintenance system.

The Council's common position thus differs from that of Parliament in two ways. Firstly, where the Council introduces the concept of entity in charge of maintenance, Parliament attributes direct responsibility for the maintenance of a vehicle to the keeper. Secondly, Parliament proposed a mandatory maintenance certification system. The common position, on the other hand, provides for a voluntary system. Council is of the view that mandatory participation in a maintenance system is not always appropriate and could lead to unnecessary administrative costs. Further, attributing responsibility for maintenance to keepers requires specific know-how, which could add an extra burden on the development of economic activities.

### 4) Exemption of Cyprus and Malta:

The common position provides for the exemption of Cyprus and Malta from the Directive amending the Railway Safety Directive on the grounds that they do not have a railway system.

To conclude, the three legislative proposals that seek to facilitate the movement of railway vehicles across the EU make an important contribution to the further integration of the European railway area. Significant achievement has already been achieved on all three proposals in particular finding agreement on the Railway Interoperability Directive reached at first reading. This, in the Council's view, lays a solid basis for both co-legislators to find compromise solutions to the proposals during their reading discussions.

## Safety on the Community's railways (Railway Safety Directive)

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The Commission recalls that an early agreement was not possible due to Parliamentary requests concerning the definition of the relationship between railway companies and vehicle keepers as regards maintenance. The Commission is of the view, however, that the Council's common position, which was adopted unanimously, does not undermine the essential objectives and underlying approach of the Commission's proposal. Further, the common position already incorporates some of the amendments adopted by Parliament and first reading as well as guaranteeing the needed consistency with the recast of the railway interoperability Directives, on which agreement was reached at first reading.

The most important element of the common position was the decision to transfer the content of Article 14 of the Railway Safety Directive (as well as the new Article 14a) to the new Interoperability Directive, the purpose of which is to gather in one single act all procedures relating to bringing railway vehicles into service.

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

The most important amendment refers to the Parliamentary proposals concerning the National Vehicle Register (NVR). Although this is in keeping with the 2007 Commission Decision on the NVR this definition has been amended by the Council in its common position in order to make it consistent with the new article on vehicle maintenance.

Parliamentary amendments rejected by the Commission and not incorporated in the common position:

These refer, in summary, to:

- the link between the Interoperability Directive and the Directive on the introduction of measures to encourage improvements in the safety and health of workers and laying down specific provisions to minimise the risk of rail transport for employees. This amendment has been rejected on the grounds that it has already been commented on in Recital 14 of the Directive currently in force;
- a proposed change in the definition of 'national safety rules'. This amendment has been rejected on the grounds that this definition has never been challenged by any of the players involved. Further, not all national safety rules are related to the essential requirements of railway interoperability. Some, for example, cover the environment.
- an amendment concerning Common Safety Targets (CSTs) and the procedure for adopting them. Work has already made good progress and it would not be appropriate to change the assumptions on which it is based whilst the process is still underway. A cost-benefit analysis is already provided for in Article 6(4) of the original Directive;
- amendments that refer to a high level of safety. A more consistent formula was found in the common position of the Council;
- an amendment concerning requests for a technical opinion from the Railways Agency if the safety authority refused to issue safety certificates or safety approvals. This was rejected on the grounds that it goes beyond the stated objectives of the Commission's initial proposal.

Parliamentary amendments acceptable to the Commission but not incorporated in full or in part in the common position:

This refers to 'the entity in charge of maintenance', which is now part of the new Community regulatory framework. Whether the system for certifying owners is to be obligatory or voluntary should not be stipulated in the Directive but following the completion of an impact study, which the Agency is to carry out.

To conclude, the Commission considers that the common position, adopted by unanimity, contributes to the essential objectives and the

underlying approach of its initial proposal and can therefore support it.

## Safety on the Community's railways (Railway Safety Directive)

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The Committee on Transport and Tourism adopted a report drafted by Paolo COSTA (ALDE IT), recommending some amendments to the Council's common position for adopting a directive of the European Parliament and of the Council amending Directive 2004/49/EC on safety on the Community's railways (Railway Safety Directive). It reinserted some amendments that had not been taken up by the Council in its common position, particularly with regard to a mandatory maintenance certification system.

The main amendments are as follows:

**Heritage and museum railways:** in order to remain consistent with the Parliament's 1st reading position on the railway interoperability directive, it must be made clear that heritage and museum railways are exempt from this directive provided they comply with national safety rules or are operating on their own network.

**CSTs:** before drafting or revising CSTs, a cost-benefit analysis must demonstrate that the expected effects of the development of CSTs shall improve the level of transport safety and the optimum use of the railway system.

**Mandatory maintenance certification:** the Commission shall, at the latest one year after the entry into force of the Directive, adopt a measure establishing mandatory certification of the entity in charge of maintenance with regard to its maintenance system. The Agency shall evaluate the mandatory certification process by submitting a report to the Commission, no later than three years after the entry into force of the relevant measure.

## Safety on the Community's railways (Railway Safety Directive)

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The European Parliament adopted, under the 2nd reading of the codecision procedure, a legislative resolution amending the Council's common position for adopting a directive of the European Parliament and of the Council amending Directive 2004/49/EC on safety on the Community's railways (Railway Safety Directive). The recommendation for second 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:

**Heritage, museum and tourist railways:** heritage museum and tourist railways are exempt from this directive provided they comply with national safety rules or are operating on their own network.

**Maintenance of vehicles:** Parliament inserted some new provisions, inter alia:

- before a vehicle is placed in service, an entity in charge of its maintenance should be identified. A railway undertaking, an infrastructure manager or a keeper could be an entity in charge of maintenance;

- the entity shall ensure that the vehicles for which it is in charge of maintenance are in a safe state of running by means of a system for maintenance. To this end, the entity in charge of maintenance shall ensure that vehicles are maintained in accordance with: the maintenance file of each vehicle; and the requirements in force including maintenance rules and TSI provisions;

- in the case of freight wagons, each entity in charge of maintenance shall be certified by a body to be accredited or recognised in accordance with the text, or by a National Safety Authority. The accreditation process shall be based on criteria of independence, competence and impartiality, such as the relevant EN 45 000 series European standards. The recognition process shall also be based on criteria of independence, competence and impartiality.

Based on a recommendation by the Agency, the Commission shall, two years after the entry into force of the Directive, adopt a measure establishing a system of certification of the entity in charge of maintenance for freight wagons. Certificates granted in accordance with this system shall confirm compliance with the requirements referred to above. The measure shall include the requirements concerning: the maintenance system established by the entity; the format and validity of the certificate delivered to the entity; the criteria for accreditation or recognition of body or bodies responsible for issuing certificates and ensuring controls necessary for the functioning of the certification system; the date of application of the certification system, including a transition period of one year for existing entities in charge of maintenance. Based on a recommendation by the Agency, the Commission shall, by not later than ten years after the entry into force of the Directive, review this measure in order to include all vehicles and to update, if necessary, the certification system applicable to freight wagons.

The Agency shall evaluate the certification process by submitting a report to the Commission, no later than three years after the entry into force of the relevant measure. Member States may decide to fulfil the obligations to identify the entity in charge of maintenance and to certify it through alternative measures, in certain prescribed cases, such as if vehicles registered in a third country and maintained according to the law of that country. Alternative measures shall be implemented through derogations to be granted by the relevant National Safety Authority, and identified and justified in the annual safety report. Where it appears that undue safety risks are being taken on the Community rail system, the Agency must inform the Commission, which in turn will make contact with the parties involved and, where appropriate, request the Member State to withdraw its derogation decision.

## Safety on the Community's railways (Railway Safety Directive)

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As a result of the agreement of the European Parliament and the Council, at first reading, to transfer the provisions of Article 14 of this proposal for a directive regarding the putting into service and cross-acceptance of rolling stock to the proposal to recast the Interoperability Directive, this proposal essentially now covers only the introduction of the regulatory procedure with scrutiny and an article on vehicle maintenance.

After several months of negotiation under the Slovene presidency, a solution for reaching an agreement emerged at the informal dialogue on

24 June 2008. This agreement essentially concerns the certification of the entities in charge of vehicle maintenance.

The Commission can accept the compromise amendment adopted by the European Parliament after the second reading.

## Safety on the Community's railways (Railway Safety Directive)

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**PURPOSE:** to support the revitalisation of the railway sector by removing obstacles to the movement of trains throughout the European rail network and to improve safety on the Community's railways.

**LEGISLATIVE ACT:** Directive 2008/110/EC of the European Parliament and of the Council amending Directive 2004/49/EC on safety on the Community's railways (Railway Safety Directive).

**CONTENT:** the Council adopted a Directive on safety on the Community's railways by approving the European Parliament's amendments at second reading.

This Directive amending existing Directive 2004/49/EC forms part of a series of Commission proposals comprising a draft [Directive on interoperability](#) of the Community rail system and a draft [Regulation establishing a European Railway Agency](#). The aim of these proposals is to improve the cross-acceptance of railway vehicles in the EU and, hence, the operation of the internal market.

Cross-acceptance will be improved through a more systematic application of the principle of mutual recognition to national authorisation procedures and harmonisation of certain provisions. This will help improve the conditions for the competitiveness of railways in Europe.

The main elements of the amending Directive are as follows:

**Scope:** the following shall be excluded from the scope: (a) heritage vehicles that run on national networks provided that they comply with national safety rules and regulations with a view to ensuring safe circulation of such vehicles; (b) heritage, museum and tourist railways that operate on their own network, including workshops, vehicles and staff.

**Role and responsibilities:** the Directive specifies the different roles and responsibilities of those concerned by rail transport (railway undertakings, infrastructure managers, keepers and entities in charge of maintenance), particularly with regard to the maintenance of railway vehicles.

**Maintenance of vehicles:** pursuant to the Directive, a railway undertaking, an infrastructure manager or a keeper could be an entity in charge of maintenance. The keeper should be clearly identified in the National Vehicle Register (NVR) provided for in the Railway Interoperability Directive. The entity shall ensure that the vehicles for which it is in charge of maintenance are in a safe state of running. To this end, the entity in charge of maintenance shall ensure that vehicles are maintained in accordance with: (a) the maintenance file of each vehicle; (b) the requirements in force including maintenance rules and the "rolling stock" technical specifications for interoperability (TSIs) provisions.

In the case of freight wagons, each entity in charge of maintenance shall be certified by a body accredited or recognised in accordance with the Directive, or by a national safety authority. The accreditation process shall be based on criteria of independence, competence and impartiality, such as the relevant EN 45 000 series European standards.

**Certification:** the Directive establishes a system of certification of the entity in charge of maintenance. The certificates shall be valid throughout the Community and shall guarantee that the maintenance requirements of this Directive are met for any vehicle of which it is in charge.

Based on a recommendation by the Agency, the Commission shall, by 24 December 2010, adopt a measure establishing a system of certification of the entity in charge of maintenance for freight wagons. It shall, by 24 December 2018 review this measure in order to include all vehicles and to update, if necessary, the certification system applicable to freight wagons.

The Agency shall evaluate the certification process by submitting a report to the Commission, no later than three years after the entry into force of the relevant measure.

**Derogations:** Member States may decide to fulfil the obligations to identify the entity in charge of maintenance and to certify it through alternative measures, in the following cases: (a) vehicles registered in a third country and maintained according to the law of that country; (b) vehicles which are used on networks or lines the track gauge of which is different from that of the main rail network within the Community; (c) military equipment and special transport requiring an ad hoc national safety authority permit to be delivered prior to the service. Such alternative measures shall be implemented through derogations to be granted by the relevant national safety authority.

**Comitology:** the Commission should be empowered to revise and adapt the Annexes to Directive 2004/49/EC, to adopt and revise common safety methods and common safety targets, and also to establish a maintenance certification system. These measures shall be adopted in accordance with the regulatory procedure with scrutiny.

**ENTRY INTO FORCE:** 24/12/2008.

**TRANSPOSITION:** 24/12/2010. The obligations for transposition and implementation of this Directive shall not apply to the Republic of Cyprus and the Republic of Malta for as long as no railway system is established within their respective territories.