

Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2013/0014(COD) Regulation</p>	Procedure completed
<p>European Union Agency for Railways. 4th Railway Package</p> <p>Repealing Regulation (EC) No 881/2004 2002/0024(COD) See also 2013/0013(COD) See also 2013/0015(COD) See also 2013/0016(COD) See also 2013/0028(COD) See also 2013/0029(COD)</p> <p>Subject 3.20.02 Rail transport: passengers and freight 3.20.02.01 Railway safety 3.20.11 Trans-European transport networks 8.40.08 Agencies and bodies of the EU</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism	 ZĪLE Roberts Shadow rapporteur  PIEPER Markus  REVAULT D'ALLONNES BONNEFOY Christine  RIQUET Dominique  CRAMER Michael  LUNDGREN Peter	16/07/2014
	Former committee responsible TRAN Transport and Tourism	ECR ZĪLE Roberts	04/03/2013
	Former committee for opinion BUDG Budgets	S&D HAUG Jutta	20/02/2013
	CONT Budgetary Control	S&D LIBERADZKI Bogusław	10/04/2013
		The committee decided not to	

Council of the European Union	ITRE Industry, Research and Energy	give an opinion.
	JURI Legal Affairs	The committee decided not to give an opinion.
	Council configuration	Meeting
	Transport, Telecommunications and Energy	3436
	Transport, Telecommunications and Energy	3318
European Commission	Transport, Telecommunications and Energy	3303
	Transport, Telecommunications and Energy	3278
	Commission DG	Commissioner
	Mobility and Transport	BULC Violeta
European Economic and Social Committee		
European Committee of the Regions		

Key events			
30/01/2013	Legislative proposal published	COM(2013)0027	Summary
07/02/2013	Committee referral announced in Parliament, 1st reading		
05/12/2013	Debate in Council	3278	Summary
17/12/2013	Vote in committee, 1st reading		
09/01/2014	Committee report tabled for plenary, 1st reading	A7-0016/2014	Summary
25/02/2014	Debate in Parliament		
26/02/2014	Results of vote in Parliament		
26/02/2014	Decision by Parliament, 1st reading	T7-0151/2014	Summary
14/03/2014	Debate in Council	3303	Summary
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	PE615.256	
10/11/2015	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations	GEDA/A/(2017)009240	
15/12/2015	Council position published	10578/1/2015	Summary
04/02/2016	Committee referral announced in Parliament, 2nd reading		
15/03/2016	Vote in committee, 2nd reading		
31/03/2016	Committee recommendation tabled for plenary, 2nd reading	A8-0073/2016	Summary
28/04/2016	Debate in Parliament		

28/04/2016	Decision by Parliament, 2nd reading	T8-0143/2016	Summary
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

Procedure reference	2013/0014(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Regulation (EC) No 881/2004 2002/0024(COD) See also 2013/0013(COD) See also 2013/0015(COD) See also 2013/0016(COD) See also 2013/0028(COD) See also 2013/0029(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 091-p1
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/8/00564

Documentation gateway

Legislative proposal		COM(2013)0027	30/01/2013	EC	Summary
Document attached to the procedure		SWD(2013)0008	30/01/2013	EC	
Document attached to the procedure		SWD(2013)0009	30/01/2013	EC	
Committee draft report		PE513.292	19/06/2013	EP	
Amendments tabled in committee		PE516.843	20/09/2013	EP	
Amendments tabled in committee		PE519.534	20/09/2013	EP	
Committee of the Regions: opinion		CDR0027/2013	08/10/2013	CofR	
Committee opinion	BUDG	PE519.544	18/10/2013	EP	
Committee opinion	CONT	PE514.829	07/11/2013	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0016/2014	09/01/2014	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0151/2014	26/02/2014	EP	Summary
Commission response to text adopted in plenary		SP(2014)446	20/05/2014	EC	
Coreper letter confirming interinstitutional agreement		GEDA/A/(2017)009240	30/06/2015	CSL	

Council statement on its position		14524/1/2015	01/12/2015	CSL	
Council position		10578/1/2015	15/12/2015	CSL	Summary
Committee draft report		PE575.347	25/01/2016	EP	
Commission communication on Council's position		COM(2016)0036	26/01/2016	EC	Summary
Amendments tabled in committee		PE577.057	22/02/2016	EP	
Committee recommendation tabled for plenary, 2nd reading		A8-0073/2016	31/03/2016	EP	Summary
Text adopted by Parliament, 2nd reading		T8-0143/2016	28/04/2016	EP	Summary
Draft final act		00010/2016/LEX	11/05/2016	CSL	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2016/796](#)
[OJ L 138 26.05.2016, p. 0001](#) Summary

European Union Agency for Railways. 4th Railway Package

PURPOSE: to replace the original founding Regulation of the European Railway Agency, and add new important tasks to the Agency making it a truly European Railway Authority in the field of interoperability and safety (fourth railway package).

PROPOSED ACT: Regulation of the European Parliament and of the Council (new proposal).

PARLIAMENTS 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 Regulation, along with the [proposal to recast Directive 2004/49/EC on rail safety](#) and the [proposal to recast Directive 2008/57/EC](#) (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.

IMPACT ASSESSMENT: in addition to the baseline scenario (Option 1), the Commission identified five options:

- Option 2: greater coordination role for the Agency in ensuring a consistent approach to certification of railway undertakings and vehicle authorisation;
- Option 3: European Railways Agency (ERA) as a one-stop-shop, where the final decision on certification and authorisation remains with the national safety agencies (NSAs) but ERA performs entry and exit checks of applications and of the decisions;
- Option 4: ERA and NSAs share competencies, where the final decision on certification and authorisation is taken by the Agency;
- Option 5: ERA takes over activities of NSAs in relation to certification of railway undertakings and vehicle authorisation;
- Option 6: horizontal measures that could be implemented to improve the competitiveness of the rail sector.

The environmental impact of all the options was assessed as positive, though low. The social impact of all the options was assessed as low/marginal. It was concluded that Option 4 (combined with Option 6) was the preferred option as it provides the best balance of outcomes.

LEGAL BASIS: Article 91(1) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal for a Regulation seeks to add new tasks to the European Railway Agency making it a truly European Railway Authority in the field of interoperability and safety.

The Agency should in particular:

- play the role of European authority responsible for issuing authorisations for placing on the market for railway vehicles and for types of vehicles, safety certificates for railway undertakings and authorisations for placing in service of trackside control-command and signalling sub-systems;
- monitor national railway rules and the performance of national authorities acting in the railway interoperability and safety fields;
- provide independent and objective technical support, predominantly to the Commission;
- have a strengthened role in the field of telematics applications to ensure their consistent development and swift deployment;
- be given a more important role to ensure the consistent development of the European Rail Traffic Management System (ERTMS).

The proposal also provides for the establishment of an appeal mechanism so that decisions of the Executive Director can be subject to appeal to a specialised Board of Appeal, whose decisions are, in turn, open to action before the Court of Justice.

Lastly, in order to perform its tasks properly, the Agency should have legal personality and an autonomous budget funded mainly through a contribution by the Union and through fees and charges paid by applicants.

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: the new proposal for a Regulation constitutes a legislative basis for commitments in terms of budget and staff for the Agency. The implication for expenditure is estimated at EUR 161.118 million for the period 2015-2020. These figures are provisional because they depend on the adoption of the Multiannual Financial Framework for 2014-2020 by the budgetary authority.

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.

European Union Agency for Railways. 4th Railway Package

The Council took note of progress on a draft regulation aimed at giving new tasks to the European Railway Agency (ERA) and streamlining its existing processes.

While good progress has been made on this proposal, some questions still need further clarification, such as:

- the potential costs of this transfer of competences to the Agency;
- a clear and precise distribution of tasks between the Agency and the national authorities, while keeping sufficient flexibility to take into account the specificities of the railway sector;
- obtaining additional guarantees on the principles governing the calculation of the fees that the ERA will charge for issuing and renewing certificates and authorisations; these fees should be set in a transparent manner in cooperation with member states, taking into account the principle that they should not place any unnecessary burden on companies;
- the need to specify further that the Agency would be held accountable when carrying out tasks related to safety certifications and vehicle authorisations.

In addition, a majority of delegations have underlined the importance of reinforcing the provisions on the Board of Appeal, in particular to ensure that national safety authorities can appeal against decisions taken by the Agency.

European Union Agency for Railways. 4th Railway Package

The Committee on Transport and Tourism adopted the report by Roberts Z?LE (ECR, LV) on the proposal for a directive of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

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

Objectives: Members sought to clarify Agencys objectives in the text. The Agency shall be to ensure a high level of rail safety and to help complete the Single European Rail Area. These objectives shall be achieved by:

- contributing, on technical matters, to the implementation of Union legislation aimed at enhancing the level of interoperability of the railway system and developing a common approach to safety on the Union railway system;
- acting as a European authority, in cooperation with the Member States, for authorising the placing of vehicles on the market and issuing safety certificates to railway undertakings;
- harmonising national rules and optimising procedures;
- monitoring action taken by the national safety authorities on interoperability and rail safety.

The regulation should also apply to the certification of train drivers foreseen in Directive 2007/59/EC but also the certification of all railway staff entrusted with safety-critical tasks.

Promoting the European rail traffic management system (ERTMS): the Agency should be given a more prominent role in this field to ensure consistent development of the ERTMS, to contribute to ensuring that ERTMS equipment complies with the specifications in force and to ensure that ERTMS-related European research programmes are coordinated with the development of ERTMS technical specifications.

Moreover, the Agency should:

- take full responsibility, including accepting contractual and non-contractual liability, for the authorisations and certifications that it issues.
- seek to facilitate the principle of reciprocity between access for third countries to the Union market and access for Union undertakings

- to the markets of third countries;
- take utmost account of external railway expertise, such as experts from the national safety authorities and other relevant national authorities as well as professionals from the railway sector, including representative bodies and independent notified conformity assessment bodies;
- have the task of developing an on-board registration device which registers the driving and rest time of locomotive drivers, on the basis of a proposal from the Commission;
- set up a certification system similar to the certification of locomotive drivers for on-board personnel in order to guarantee a high level of qualifications and competences, to recognise the importance of this professional group for safe rail services and also in order to facilitate the mobility of workers;
- work on harmonised compulsory requirements for regular maintenance intervals for freight wagons;
- monitor the national safety authorities through audits and inspections;
- cooperate fully with, and give the maximum possible assistance to, national authorities carrying out civil or criminal investigations when the investigations concern issues for which the Agency has responsibility
- define the characteristics of the European registers and create a European Vehicles Register.

Spontaneous reporting of incidents: the Agency should (i) establish a system enabling the spontaneous and anonymous reporting of any incident that may jeopardise the system's safety; (ii) create a mechanism for informing the responsible actors automatically; (iii) coordinate the communication of reports from national agencies, in particular where they affect safety in more than one State.

Technical assistance in the field of rail interoperability: the Agency could, among other things, issue recommendations to the Commission: (i) on European standards to be developed by the relevant European standardisation bodies, particularly concerning spare parts; (ii) on the training and certification of on-board personnel with safety tasks; (iii) on the harmonisation of national rules, particularly in cases where one rule concerns several Member States; (iv) on minimum inspection intervals (time periods and kilometrage) in respect of rolling stock (goods wagons, passenger carriages and locomotives).

Boards of Appeal: these should be independent in terms of decision-making. To achieve this, they should be functionally and organisationally distinct from other parts of the Agency.

It is proposed that an act adopted by the committee for rail interoperability and safety should define the required qualifications for each member of the Board of Appeal, the power of each member at the preparatory stage at which decisions are taken and opinions issued, and the voting conditions.

Another amendment defined the procedure according to which the parties may request that a member of the board be excluded with a view to ensuring full impartiality and, at the same time, to preventing the use of any delaying tactics.

Charges: the level of charges should be differentiated according to the extent of operations and areas of use specified. In addition, any task or obligation in addition to the tasks stemming from Union legislation should be subject to an assessment and to compensation from the budget of the Union.

Conflict of interest: an amendment proposes a legal base that would permit the Agency to set in place a complete set of rules for managing and preventing conflict of interest. The governing bodies of the Agency shall be responsible of developing and implementing this policy taking into consideration the particularities of the Agency to get the best technical knowledge as well as sensitive, classified and commercial information that might be involved.

European Union Agency for Railways. 4th Railway Package

The European Parliament adopted by 597 votes to 68 with 11 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

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

Purpose: Members sought to clarify Agency's objectives in the text. The Agency shall be to ensure a high level of rail safety and to help complete the Single European Rail Area. These objectives shall be achieved by:

- contributing, on technical matters, to the implementation of Union legislation aimed at enhancing the level of interoperability of the railway system and developing a common approach to safety on the Union railway system;
- acting as a European authority, in cooperation with the Member States, for authorising the placing of vehicles on the market and issuing safety certificates to railway undertakings;
- harmonising national rules and optimising procedures;
- monitoring action taken by the national safety authorities on interoperability and rail safety.

The regulation should also apply to the certification of train drivers foreseen in Directive 2007/59/EC but also the certification of all railway staff entrusted with safety-critical tasks.

Promoting the European rail traffic management system (ERTMS): the Agency should be given a more prominent role in this field to ensure consistent development of the ERTMS, to contribute to ensuring that ERTMS equipment complies with the specifications in force and to ensure that ERTMS-related European research programmes are coordinated with the development of ERTMS technical specifications.

Moreover, the Agency should:

- take full responsibility, including accepting contractual and non-contractual liability, for the authorisations and certifications that it issues.
- seek to facilitate the principle of reciprocity between access for third countries to the Union market and access for Union undertakings to the markets of third countries;
- take utmost account of external railway expertise, such as experts from the national safety authorities and other relevant national authorities as well as professionals from the railway sector, including representative bodies and independent notified conformity assessment bodies;

- have the task of developing an on-board registration device which registers the driving and rest time of locomotive drivers, on the basis of a proposal from the Commission;
- set up a certification system similar to the certification of locomotive drivers for on-board personnel in order to guarantee a high level of qualifications and competences, to recognise the importance of this professional group for safe rail services and also in order to facilitate the mobility of workers;
- work on harmonised compulsory requirements for regular maintenance intervals for freight wagons;
- monitor the national safety authorities through audits and inspections;
- define the characteristics of the European registers and create a European Vehicles Register.

The Agency may also cooperate with national authorities carrying out civil or criminal investigations, and give the maximum possible assistance to, when the investigations concern issues for which the Agency has responsibility.

Spontaneous reporting of incidents: the Agency should (i) establish a system enabling the spontaneous and anonymous reporting of any incident that may jeopardise the system's safety; (ii) create a mechanism for informing the responsible actors automatically; (iii) coordinate the communication of reports from national agencies, in particular where they affect safety in more than one State.

Technical assistance in the field of rail interoperability: the Agency could, among other things, issue recommendations to the Commission: (i) on European standards to be developed by the relevant European standardisation bodies, particularly concerning spare parts; (ii) on the training and certification of on-board personnel with safety tasks; (iii) on the harmonisation of national rules, particularly in cases where one rule concerns several Member States; (iv) on minimum inspection intervals (time periods and kilometrage) in respect of rolling stock (goods wagons, passenger carriages and locomotives).

Management Board: the Management Board shall be composed of one representative from each Member State and two representatives of the Commission, all with a right to vote. The term of office of the members shall be five years and may be renewed once. The term of office of the Chairperson and Deputy Chairperson shall be five years and may be renewed once.

Boards of Appeal: these should be independent in terms of decision-making. To achieve this, they should be functionally and organisationally distinct from other parts of the Agency.

It is proposed that an act adopted by the committee for rail interoperability and safety should define the required qualifications for each member of the Board of Appeal, the power of each member at the preparatory stage at which decisions are taken and opinions issued, and the voting conditions.

Another amendment defined the procedure according to which the parties may request that a member of the board be excluded with a view to ensuring full impartiality and, at the same time, to preventing the use of any delaying tactics.

Charges: the level of charges should be differentiated according to the extent of operations and areas of use specified. In addition, any task or obligation in addition to the tasks stemming from Union legislation should be subject to an assessment and to compensation from the budget of the Union. The Agency's independence and impartiality should not be compromised by any financial contributions that it receives from Member States, third countries or other entities.

Conflict of interest: an amendment proposes a legal base that would permit the Agency to set in place a complete set of rules for managing and preventing conflict of interest. The governing bodies of the Agency shall be responsible of developing and implementing this policy taking into consideration the particularities of the Agency to get the best technical knowledge as well as sensitive, classified and commercial information that might be involved.

European Union Agency for Railways. 4th Railway Package

The Council agreed a general approach regarding a proposal aimed at defining the new tasks of the European Railway Agency (ERA) to reflect its stronger role in the future in safety certification and vehicle authorisation.

According to the general approach adopted on the interoperability and safety directives, a dual system of vehicle authorisations and safety certifications will be set up, with the ERA acting as a one-stop-shop for authorising vehicles intended for cross-border operations and for issuing safety certificates to railway undertakings involved in cross-border traffic. National safety authorities will still have an important role in carrying out the necessary assessments.

The compromise also stipulates that, for vehicles and railway undertakings involved in national transport only, there will be a choice between submitting a request for authorisation or certification to the Agency or to the national safety authority.

The main elements of the general approach are as follows:

Examination of national rules: where the Agency's assessment of national rules is negative, it can, after consulting the member state, issue an opinion. In addition, it is stated that only national rules which have already been adopted at national level can be the subject of a Commission decision, while draft national rules may only lead to an opinion by the Agency.

Actions to be taken following audits and inspections: the Agency will monitor, through audits and inspections, how national safety authorities carry out their tasks related to safety and interoperability. If deficiencies are spotted and if, following certain steps, the member state's response is still considered insufficient, the Commission may take appropriate actions concerning the steps to be taken as a result of the audit.

Fees to be charged by the Agency: these will be set in a transparent manner, with due regard to the principle that they must not lead to an unnecessary burden on companies. They should, however, cover the cost of the services delivered.

Accountability: the ERA will be held accountable when carrying out its tasks related to safety certifications and vehicle authorisations.

System of appeals: a system of appeals will be set up, with the possibility for any natural or legal person to appeal against a decision addressed to them, or of direct and individual concern to them. In the event of a disagreement between the Agency and the national safety authorities, an arbitration procedure will be launched at the national authority's request.

Cooperation agreements: the general approach on the interoperability and safety directives provides for the possibility of concluding

cooperation agreements between the Agency and national safety authorities to facilitate the practical implementation of the new certification and authorisation system.

Isolated networks: in specific cases of isolated networks, the Agency may subcontract certain certification and authorisation tasks to the national authorities.

Governance: the text also includes new rules on the ERA's governance, in line with the [recommendations on the decentralised agencies](#) agreed between the European Parliament, Council and Commission in 2012, inter alia regarding the composition of the Management Board and the conditions of employment of the Executive Director.

European Union Agency for Railways. 4th Railway Package

The Council adopted its position in first reading with a view to the adoption of the regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

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 amend the existing regulatory framework in order to define the new tasks in the field of interoperability and safety to be carried out by the European Railway Agency.

The objective of the Agency shall be to:

- contribute to the further development and effective functioning of a single European railway area without frontiers, by guaranteeing a high level of railway safety and interoperability, while improving the competitive position of the railway sector;
- follow the development of national railway rules in order to support the performance of national authorities acting in the fields of railway safety and interoperability and to promote the optimisation of procedures.

Where provided for by the [Directive on rail safety](#) and the [Directive on interoperability](#), the Agency shall perform the role of Union authority responsible for issuing authorisations for the placing on the market of railway vehicles and vehicle types and for issuing single safety certificates for railway undertakings.

The main points introduced in the Council position are as follows:

Issuing of safety certificates and vehicle authorisations: the Council position introduces more flexibility in the respective responsibilities of the national safety authorities and the Agency in the safety certification and vehicle authorisation processes. It provides for additional safeguards granted to the national safety authorities in specific circumstances.

Under the Council's position, a dual system of vehicle authorisations and safety certifications is set up, where: (i) the Agency acts as a one-stop-shop for authorising vehicles intended for cross-border operations and for issuing safety certificates to railway undertakings involved in cross-border traffic, (ii) national safety authorities keep an important role in carrying out the necessary assessments.

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

In addition, the Council's position provides for the establishment and management by the Agency of an information and communications system with one-stop shop functions.

Role of the Agency for the authorisation of placing in service of the European signalling system (ERTMS): the Council position states that the national safety authorities should continue to authorise the placing in service of ERTMS systems. Before any call for tenders relating to ERTMS trackside equipment, the Agency should check that the technical solutions envisaged are fully compliant with the relevant TSIs and are therefore fully interoperable.

Fees and charges for safety certificates and vehicle authorisations: the Council's position sets out in the Regulation the principles governing the calculation of the fees and charges to be applied by the Agency to applicants for the issuing of authorisations and certifications. These fees and charges should take into account the actual costs incurred by the national safety authorities in carrying out their relevant tasks when issuing safety certificates and vehicle authorisations. They shall be set in a transparent, fair and uniform manner in cooperation with Member States, shall not jeopardize the competitiveness of the European railway sector, and shall not lead to unnecessary financial burden on applicants.

The text clarifies that fees and charges shall also be levied for the issuing of decisions for approval of ERTMS. It also provides that measures in relation to the calculation of fees and charges shall be established by means of implementing acts.

Liability of the Agency and cooperation with national judicial authorities: the Agency should take full responsibility for the vehicle authorisations and single safety certificates it issues, assuming inter alia both contractual and non-contractual liability in respect thereof.

The Council's position introduces a new Article on the cooperation with national judicial authorities. It also clarifies that the immunity of the Executive Director (and of the Agency staff) could be waived, if necessary, in the event of judicial proceedings involving the staff of the Agency, in which a member of the staff is requested to appear before a national court,

Cooperation of the Agency with national safety authorities: the Council's position lays down that the Agency and the national safety authorities shall conclude cooperation agreements in the context of vehicle authorisations and safety certificates to facilitate the practical implementation of the new certification and authorisation system. Under this approach, the Agency will be able to subcontract certain certification and authorisation tasks to the national safety authorities.

In particular, for networks isolated from the rest of the Union's rail system, cooperation arrangements may be introduced to include the possibility for contracting tasks to the relevant national safety authorities when it is necessary to ensure efficient and proportionate allocation of certification and authorisation.

Appeal and arbitration procedures/conflict of interest rules: the Council's text: (i) 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; (ii) introduces new provisions on

arbitration procedures to guarantee the possibility for a national safety authority to lodge an appeal against a decision taken by the Agency in case of disagreement.

In addition, the Councils text lays down detailed rules concerning the functioning of the Board of Appeal, including rules on: (i) the independence of its members from the parties involved in an appeal or arbitration, (ii) the prevention and management of conflicts of interests of the Agency staff at all levels and (iii) the inclusion of a 3-month time limit for an appeal procedure in order to ensure that appeal cases do not create obstacles or delays.

New governance rules: The Council provides for: (i) the appointment of two representatives of the Commission within the Management Board (as against four in the Commission proposal); (ii) a new obligation for the Commission to propose a list of at least three candidates for the appointment of the Executive Director; (iii) the option for one-third of the Management Board to remove the Executive Director.

European standards in relation to spare parts: the Agency shall: (i) issue detailed guidance concerning standards for the relevant European standardisation bodies to complement the mandate given to them by the Commission; (ii) contribute to the identification of potential interchangeable spare parts to be standardised, including main interfaces to such spare parts and shall present to the Commission appropriate recommendations.

Languages: the Council's position provides that, at the request of a member of the Management Board, the decision on languages shall be taken by unanimity, in line with the current practices deriving from the application of the existing Regulation (EC) n° 881/2004.

European Union Agency for Railways. 4th Railway Package

The Commission presented a communication concerning the position of the Council on the adoption of the new Regulation on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

The Commission considered that the position at first reading adopted by the Transport Council on 10 December 2015 supports the main objectives of the Commission proposal to strengthen the role of the Agency. However, it deviates on some aspects, in particular that railway undertakings/manufacturers operating in only one Member State would be given the choice to apply for a safety certificate or vehicle authorisation either to the Agency or to the domestic national safety authorities (NSAs).

In addition, the Council position:

- sets out detailed provisions on the functioning of the Agency's working group;
- provides the Agency with the tools needed to act as an one stop shop via an information and communication system;
- clarifies the Agency's role in progressive reduction of national rules;
- lists the Agency's additional tasks related to the monitoring of NSAs and notified bodies;
- specifies how the board of appeal will function;
- defines the conditions for adopting an implementing act on fees payable to the Agency.

The Commission regrets the fact that compared to the original proposal which it presented, the Council position deviates from some key provisions agreed under the Common Approach on EU decentralised agencies, by the European Parliament, the Council and the Commission in 2012. This concerns in particular:

- the appointment of two Commission representatives to the Management Board instead of four;
- granting the power to propose the dismissal of the Executive Director to one third of the members of the Management Board;
- the Commission also emphasises that appointing an observer from among the members of the Management Board to follow the Commission's procedure for selecting the Executive Director should not lead to any duplication of roles in the selection and appointment procedures.

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 second reading, together with the other five proposals of 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 railway industry.

European Union Agency for Railways. 4th Railway Package

The Committee on Transport and Tourism adopted the recommendation for second reading contained in the report by Roberts Z?LE (ECR, LV) on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

As Councils 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 two Commission statements annexed to this resolution concerning the following:

- ERA management board and the selection and dismissal procedure of the executive director: on these two issues, the Commission regretted the fact that compared to the original proposal presented by the Commission, the agreed text on the new ERA Regulation deviates from the key provisions agreed under the Common Approach on EU decentralised agencies, by the European Parliament, the Council and the Commission in 2012;
- necessary budget resources: the 4th Railway Package gives ERA new competences, in particular the power to issue vehicle authorisations and safety certificates directly to the sector. It cannot be excluded that in the transition period fees and charges are not yet available to ERA while the staff needs to be recruited and trained. In order to avoid disruption to the railway market, the Commission will endeavour to reserve the necessary budget in order to cover the costs of relevant staff.

At its first reading, Parliament sought to clarify the ERAs role, looking for solutions that would reduce costs and red tape while offering benefits for all stakeholders. The aim was to ensure better business conditions and competitive opportunities for all market players and thus provide higher quality, cheaper services for end-users, whether involving cargo or passengers.

At the end of informal negotiations between Parliament and Council stretching over nine months, an agreement was reached which will:

- eliminate the need for multiple applications: ERA will issue all authorisations for vehicles intended for cross-border operations and all safety certificates to railway companies running cross-border services. For vehicles and operators involved only in national transport, the applicant will be able to choose whether the Agency or the national authority processes its application;
- give ERA a greater role in the development of the European Rail Traffic Management System (ERTMS): to ensure that projects are interoperable, ERA will assess the technical solutions envisaged before any call for tenders relating to ERTMS track-side equipment is issued;
- enable ERA to set up a "one-stop-shop" which will act as a single entry point for all applications. This information and communication system will make the procedures easy and transparent;
- lead to cooperation agreements between ERA and national safety authorities. Together with the one-stop-shop, these agreements will: (i) ensure a clear division of tasks between the European and national authorities; (ii) ensure consistency in the case of different applications for similar authorisations or certifications;
- require ERAs board to adopt rules for the prevention and management of conflicts of interest and procedures for cooperation with national judicial authorities.

European Union Agency for Railways. 4th Railway Package

The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

Parliament approved the Council position at first reading. It took note of two statements by the Commission which are annexed to the resolution:

- On the ERA management board and the selection and dismissal procedure of the executive director: on these two issues, the Commission regretted the fact that compared to the original proposal presented by the Commission, the agreed text on the new ERA Regulation deviates from the key provisions agreed under the Common Approach on EU decentralised agencies, by the European Parliament, the Council and the Commission in 2012. The Commission emphasises in particular that the appointment of an observer among the members of the Management board to follow the selection procedure applied by the Commission for the appointment of the executive director should not result in a duplication of roles in the selection and appointment procedures;
- On the necessary budget resources: the 4th Railway Package gives ERA new competences, in particular the power to issue vehicle authorisations and safety certificates directly to the sector. In order to avoid disruption to the railway market, the Commission will endeavour to reserve the necessary budget in order to cover the costs of relevant staff.

European Union Agency for Railways. 4th Railway Package

PURPOSE: to replace the original founding Regulation of the European Railway Agency, and make the latter a truly European railway authority in the field of interoperability and safety (fourth railway package).

LEGISLATIVE ACT: Regulation (EU) 2016/796 of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

CONTENT: the Regulation on the European Railway Agency (ERA), together with the Directives on [rail safety](#) and on [interoperability](#), is part of the technical pillar of the fourth railway package. It repeals Regulation (EC) No 881/2004.

The objectives of the Agency are to:

- contribute to the further development and effective functioning of a single European railway area without frontiers, by guaranteeing a high level of railway safety and interoperability, while improving the competitive position of the railway sector;
- follow the development of national railway rules in order to support the performance of national authorities acting in the fields of railway safety and interoperability and to promote the optimisation of procedures.

One-stop shop: the Agency shall establish and manage an information and communications system with at least the following one-stop-shop functions:

- a single entry point through which the applicant shall submit its application files for type authorisation, vehicle authorisations for placing on the market and single safety certificates;
- a common information-exchange platform, providing the Agency and national safety authorities with information about all applications for authorisations and single safety certificates, the stages of these procedures and their outcome;
- an early-warning system able to identify at an early stage the needs for coordination between decisions to be taken by national safety authorities and the Agency in the case of different applications requesting similar authorisations or single safety certificates.

The one-stop shop must be operational by 16 June 2019.

With respect to rail safety, the Agency will have the following tasks:

- to address recommendations to the Commission on the common safety indicators (CSIs), common safety methods (CSMs) and common safety targets (CSTs);
- to issue, renew, suspend and amend single safety certificates and cooperate with national safety authorities in that respect;

- to assist the Commission with regard to the system of certification of entities in charge of maintenance;
- to cooperate with national investigating bodies;
- to follow developments in the legislation dealing with the transport of dangerous goods by rail;
- to encourage, the exchange of information on safety-related accidents, incidents and near misses, taking into account the experience of the railway actors.
- With respect to interoperability, the Agency's tasks are:
 - to address recommendations to the Commission on the technical specifications for interoperability (TSIs) and their revision;
 - to issue authorisations for the placing on the market of railway vehicles, and shall be empowered to renew, amend, suspend and revoke authorisations issued by it;
 - before any call for tenders relating to ERTMS trackside equipment, to check that the technical solutions are fully compliant with the relevant TSIs and are therefore fully interoperable, and take a decision for approval;
 - to act as the system authority to ensure the coordinated development of telematics applications in the Union, in accordance with relevant TSIs.

Furthermore, the Agency shall:

- act as the system authority to ensure the coordinated development of the ERTMS within the Union, in accordance with relevant TSIs;
- monitor the performance and decision-making of the national safety authorities and the notified conformity assessment bodies through audits and inspections;
- monitor the overall safety performance of the Union rail system.

Cooperation of the Agency with national safety authorities: the Directive lays down that the Agency and the national safety authorities shall conclude cooperation agreements in the context of vehicle authorisations and safety certificates to facilitate the practical implementation of the new certification and authorisation system.

Governance: the Agency's administrative and management structure shall comprise: (a) a Management Board; (b) an Executive Board; (c) an Executive Director; (d) one or more Boards of Appeal.

The Directive provides for: (i) the appointment of two representatives of the Commission within the Management Board; (ii) a new obligation for the Commission to propose a list of at least three candidates for the appointment of the Executive Director; (iii) the option for one-third of the Management Board to remove the Executive Director.

Lastly, the Directive lays down provisions related to matters concerning deficiencies noted in the tasks carried out by national authorities regarding safety and interoperability, the fees that the ERA might charge for its services and the establishing of an appeal mechanism.

ENTRY INTO FORCE: 15.6.2016.