

Railway safety. Recast. 4th Railway Package

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

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

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

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

Objectives: the Directive aims to establish a common approach to safety in order to increase economies of scale for railway undertakings active across the Union, as well as to simplify and reform the administrative procedures for issuing safety certificates, thereby removing the fragmentation of rules across the Union. More specifically, the objective of the Directive is to amend the existing regulatory framework in order to put in place the migration towards an EU single safety certificate for railway undertakings and infrastructure managers, to be issued by the European Railway Agency ("the Agency").

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

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

The main points of the Directive are as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

later than 12 months after the date of the occurrence.

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

ENTRY INTO FORCE: 15.6.2016.

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

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