Opinion of the European Economic and Social Committee on the

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(2007/C 256/08)

On 16 January 2007 the Council decided to consult the European Economic and Social Committee, under Articles 71 and 156 of the Treaty establishing the European Community, on the abovementioned proposals. The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 19 June 2007. The rapporteur was Mr Confalonieri.

At its 437th plenary session, held on 11 and 12 July 2007 (meeting of 11 July), the European Economic and Social Committee adopted the following opinion by 137 votes with 2 abstentions

1. Conclusions and recommendations

1.1 The proposals:
— amending Directive 2004/49/EC on safety on the Community’s railways;

appear to be in line with the intention to facilitate access for operators to the European rail system.

They:
— simplify the certification procedures for rolling stock on the interoperable system;
— standardise most of the checks carried out at national level on rolling stock, maintenance procedures and running and maintenance operators;
— create a system for comprehensive comparison between national certification rules, including elements not covered by TSIs (Technical Specification for Interoperability).

1.2 The EESC supports the objective of simplifying the procedure for placing stock in service.

1.3 The EESC believes that this simplification will increase the use of the European rail system by shifting demand away from other transport modes, while also helping to improve the environment and using the energy sources advocated in the EU’s energy plans.

1.4 The EESC calls for the process of extending application of European interoperability standards and dividing certification checks between national and Community bodies not to give rise to safety risks.

1.5 In particular, the EESC recommends that the boundaries between the remits of the different bodies introduced by the new system be carefully managed.

1.6 The EESC believes that, for wagons and passenger carriages placed in service after the Directive has entered into force, a single authorisation for placing in service issued by one EU Member State should suffice. The new Regulation on the European Agency will enable railway operators, infrastructure managers and wagon keepers, and, most importantly, national certification bodies, to:
— speed up certification;
— reduce the number of checks, eliminating national duplication in respect of joint standards;
— operate in an unambiguous legislative framework, with the option of using the Agency’s technical recommendations.
1.7 The EESC notes that, with the action planned, the Agency will become the system authority for the setting-up of the European rail system (comprising the HS (High Speed) network, trans-European transport corridors and, in the future, the whole of the remaining national networks), thanks to coordination and extension of the ERTMS (European Railway Traffic Management System) system, with publication of the cross-referencing system for national rules and the provision of technical support to national certification bodies.

1.8 The gradual development of the European Agency's role in guiding and monitoring the rail interoperability process and technological developments will have to be mirrored by some change in the roles of national certification bodies.

1.9 The EESC asks the Commission to consider the case for establishing a European register of safety problems regarding rail traffic, jointly agreed by the Member States, to provide basic data for setting joint parameters.

1.10 The hoped-for result is the creation of a European market in rolling stock, rolling-stock and system-maintenance activities and human resources for the management of transport services.

1.11 This will be a unique opportunity for European rolling stock manufacturers, particularly if the technical decisions on TSIs safeguard the possibility of keeping enough manufacturers to ensure a competitive European market for rolling stock (and maintenance thereof).

1.12 The EESC is concerned that, in the case of rolling stock placed in service before the Directive enters into force and not bearing an 'EC' declaration of verification, implementing the railway safety directive should not create more red tape for railway operators.

1.13 The EESC believes that the creation of national certification bodies in ESS countries should be provided for.

1.14 Analysis of derogations from TSIs should specifically include assessment, as regards the cost-effectiveness of a project, of the impact of Community co-financing on the economic viability of the project.

1.15 The EESC believes that an analysis of derogations should be carried out not for each individual TSI but for the system of TSIs as a whole.

1.16 The EESC recommends that the current language rules be applied when the Agency publishes TSIs.

It believes that the Agency's assessments and opinions should be requested for all construction or renewal measures, even where these are not funded by the European Community, in order to point both national and Community measures towards the European safety system.

1.17 The possibility of requesting opinions from the European Agency, even where they might conflict with the evaluations of national certification bodies, should be extended to all stakeholders. In particular, Community rail undertakings and the sector's trade union organisations should be granted this possibility.

2. Reasons and observations

2.1 Main points and general context of the proposal

2.1.1 The gradual establishment of a European railway area without frontiers demands technical regulations to govern safety- and management-related aspects and system access procedures.


2.1.3 The dual objectives of safety and interoperability generate technical tasks that must be managed by a specialised body. It was for this purpose that the European Railway Agency for safety and interoperability was set up.

2.1.4 The Agency's main areas of activity are:

— promoting the establishment of a European railway area, contributing to an upturn in the sector and improving safety;

— developing indicators, objectives and common safety methods;

— facilitating procedures for the issue of safety certificates to railway undertakings;

— securing a maximum of transparency and the efficient dissemination of information;

— giving continuity to activities and to the development over time of the TSIs within a permanent technical framework;

— enhancing the interoperability of the trans-European network by approving new Community-backed investment projects that promote interoperability;
— assisting with the establishment of a certification system for maintenance workshops;

— supplying the technical support needed to ensure that the necessary professional qualifications for train drivers are given due consideration at European level;

— supplying technical support for the establishment of a registration system for recognition of the suitability of rolling stock for use in specified conditions;

— ensuring maximum transparency and equal access for all parties to relevant information;

— encouraging the promotion of innovation in railway safety and interoperability.

2.1.5 National procedures for the approval of locomotives are currently viewed as one of the main barriers to the establishment of new railway undertakings in the freight transport sector and as a major obstacle to the interoperability of the European railway system.

2.1.6 As no Member State can decide autonomously that its own operating authorisation should be valid in other Member States, a Community initiative is necessary to harmonise and simplify national procedures and to enable more systematic recourse to the principle of mutual recognition.

2.1.7 Furthermore, as part of the legislative simplification programme, the Commission intends to consolidate and merge the railway interoperability directives, with a view to establishing a single set of rules for the European rail system.

2.1.8 These initiatives will make rail transport more competitive by cutting costs for the railway sector.

2.2 European Railway Agency

2.2.1 The Agency is to facilitate the certification procedure for existing rolling stock by providing a reference document cross-referencing the national rules.

2.2.2 The Agency is to assess the interoperability aspect of industry requests for Community financing for infrastructure and rolling stock projects.

2.2.3 The Agency is to assess the relationship between wagon keepers and railway undertakings (formerly the RIV (Agreement between railway undertakings for the exchange and use of wagons) agreement), in the field of maintenance in particular, and make recommendations to the Commission regarding regulations.

2.2.4 The Agency is to make recommendations on common criteria for defining professional skills and assessing staff for management and maintenance activities.

2.2.5 The Agency is to take on the role of authority for the ERTMS project.

2.3 Interoperability

2.3.1 This proposal is designed to simplify and modernise the European legislative framework. It is in this context that the consolidation and merger of the directives on railway interoperability are proposed.

2.3.2 With its ten years' experience of implementing the interoperability directives, the Commission is also proposing several improvements to the technical part of the regulatory framework.

2.4 Safety of the European rail system

2.4.1 The amendment of Article 14 of the railway safety directive specifies which part of an authorisation must be mutually recognised and which is strictly linked to the compatibility of the vehicle in question with the infrastructure concerned.

2.4.2 The amendment to the legislation means that:

— every time a vehicle is brought into service a maintenance supplier must be clearly identified;

— the railway undertaking must demonstrate that the wagons it uses are operated and maintained in accordance with the rules currently in force;

— railway undertakings must demonstrate the system and procedures that they have put in place to ensure that the use of wagons from different keepers does not jeopardise railway safety;

— the Agency is to assess the procedures put in place by the railway companies to manage their relations with the wagon keepers.

3. General comments

3.1 European Railway Agency

3.1.1 The nature of the railway system is such that all the elements play a part in the system's safety.
3.1.2 While the Agency’s scope is expanding from the interoperable system to the safety system, in time its responsibility will also extend to all elements of the system.

3.1.3 It appears that at the end of the process there will be a single Community system and a single Railway Agency.

3.1.4 The regulatory comparison phase should be viewed as one of the necessary steps in this direction.

3.1.5 The varying impact that decisions on TSIs and new certification procedures will have on the various Member States, the infrastructure managers, the railway companies and the wagon keepers and final customers should be assessed.

3.1.6 The need to protect the economic balance of the various national networks and market operators must not be overlooked, particularly in the harmonisation phase for technical standards and certification procedures.

3.1.7 The Agency should be given responsibility for directing technological choices for a network open to interoperability, now and in the future, not only through financial incentives.

3.1.8 It should be borne in mind that, according to the provisions of the draft interoperability directive, the Agency’s responsibilities will eventually expand to include the entire Community rail network.

3.2 Interoperability

3.2.1 The draft directive simplifies the TSIs for HS and traditional systems when they are comparable.

3.2.2 The draft directive extends the scope of the TSIs beyond the HS network and the TEN (Trans European Network) corridors to cover all national networks, with certain exceptions.

3.2.3 This marks a crossroads in the European railway system technological development policy with a view to establishing a single European network. The resulting economic and strategic impact is greater than suggested in the explanatory memorandum.

3.2.4 Responsibility for decisions on the type of TSIs to apply to new projects and major renovations to the existing infrastructure will fall largely on the Community’s shoulders.

3.2.5 Community decisions on the definition and development of the TSIs, in relation to the current situation in each Member State, will have a major economic impact on the planning of technological and infrastructural investment in the various countries.

3.2.6 It would appear that an economic assessment of the impact of the new TSIs is necessary for each Member State, to underpin the assessment of whether adoption is appropriate.

3.2.7 This evaluation should be carried out differently for TSIs with an impact on public investment in the Member States and for TSIs with an impact on investments by railway undertakings and private operators.

3.2.8 Extending the scope of the TSIs to the entire European rail network, with exceptions, also implies a new system of relationships between the European Railway Agency and certification bodies in the individual Member States.

3.2.9 These bodies will most likely concentrate their efforts on certification activities for undertakings and operators rather than on managing the development of technological standards.

3.2.10 The amendment of the safety directive is one of a number of technical modifications aimed at facilitating the circulation of interoperable rolling stock.

3.2.11 Meanwhile, the newly defined concept of a wagon ‘keeper’ is introduced.

3.2.12 The organisation of the rolling stock certification process is such that the same stock will be assessed by different bodies depending on the various technical aspects.

3.2.13 The aspects included in the TSIs will be certified by one of the national certification bodies.

3.2.14 The additional national aspects will be checked by the national certification body for the network concerned. The national certification body will take note of Community certifications, check specific national certifications and issue the safety document. It has the power to reject the certification request and therefore remains responsible for the consistency of all the certified elements.

3.2.15 The European Railway Agency acts as an independent appeal body at the end of the certification request process.

3.2.16 The Committee has no other comments besides those general remarks already made above (under the Interoperability and Agency sections).
4. Specific comments

4.1 European Railway Agency

4.1.1 Article 8a: The Agency is on the one hand to create and update a reference document cross-referencing national rules for each parameter (paragraph 2) and, on the other, to provide only technical opinions on:

— equivalence of rules;
— requests for complementary information;
— the grounds for refusing authorisation.

The Agency’s work would be more effective if these opinions were binding and could be requested by stakeholders as well: infrastructure managers, railway companies, wagon keepers.

4.1.2 Article 15: The Agency’s responsibilities should be extended to all renewal, upgrading or construction projects concerning parts of infrastructure subject to current or future TSIs.

4.1.3 Article 16a: Assessment criteria need to be given to the Agency for choosing between ‘voluntary or mandatory’ systems of certification, based on:

— safety levels;
— transparency of relationships between undertakings;
— transparency of the market and regulation.


4.1.4 Article 18: It must be stressed that, when drawing up registration application forms, the Agency should endeavour to keep specifications which are not included in the common sections to a minimum.

4.1.5 Article 21b: The Agency’s powers seem to be commensurate with its goals. The subsidiarity principle is not upheld.

4.2 Interoperability

4.2.1 Article 1: Where extension of TSIs to the European Economic Area is provided for, this must be mirrored by provision for recognition of national certification bodies.

4.2.2 Article 6: The freedom granted to the Agency as regards the language rules for publishing the technical annexes of TSIs is not conducive to easy, shared access to Community legislation on interoperability.

4.2.3 Article 7: The concept of derogation seems very broad, particularly as regards financial considerations, as there is no requirement to take into account the impact of Community financing on an economic viability study. It would be better to apply the derogation system to the entire set of TSIs relating to the project in question than to apply derogations to individual TSIs.


The President
of the European Economic and Social Committee
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