Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast) (Text with EEA relevance)

DIRECTIVE (EU) 2016/797 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 May 2016

on the interoperability of the rail system within the European Union

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) and Articles 170 and 171 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Directive 2008/57/EC of the European Parliament and of the Council[(4)] has been substantially amended several times. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

(2) In order to enable citizens of the Union, economic operators and competent authorities to benefit to the full from the advantages deriving from the establishment of a single European railway area, it is appropriate, in particular, to improve the interlinkage and interoperability of the national rail networks as well as access to those networks and to implement any measures that may be necessary in the field of technical standardisation as provided for in Article 171 of the Treaty on the Functioning of the European Union (TFEU).

(3) The pursuit of interoperability within the Union rail system should lead to the definition of an optimal level of technical harmonisation and make it possible to facilitate, improve and develop international rail transport services within the Union and with third countries, and contribute to the progressive creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the Union rail system.

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(4) In order to contribute to the completion of the single European railway area, reduce the costs and duration of authorisation procedures and improve railway safety it is appropriate to streamline and harmonise authorisation procedures at Union level.

(5) Metros, trams and other light rail systems are subject in many Member States to local technical requirements. Such local public transport systems are usually not subject to licensing within the Union. Trams and light rail systems are furthermore often subject to road legislation because of shared infrastructure. For those reasons, such local systems do not need to be interoperable and should therefore be excluded from the scope of this Directive. This does not prevent Member States from applying the provisions of this Directive to local rail systems on a voluntary basis if they deem this appropriate.

(6) A tram-train is a public-transport concept which allows for a combined operation on both light-rail infrastructure and heavy-rail infrastructure. Member States should be permitted to exclude from the scope of the measures implementing this Directive those vehicles primarily used on light-rail infrastructure but equipped with some heavy-rail components necessary to enable transit to be effected on a confined and limited section of heavy-rail infrastructure for connectivity purposes only. When tram-trains use railway infrastructure, compliance with all essential requirements should be ensured, as well as compliance with the expected safety level on the relevant lines. For cross-border cases, competent authorities should cooperate.

(7) The commercial operation of trains throughout the rail network requires, in particular, excellent compatibility between the characteristics of the infrastructure and those of the vehicles, as well as efficient interconnection of the information and communication systems of the different infrastructure managers and railway undertakings. Performance levels, safety, quality of service and cost depend upon such compatibility and interconnection, as does, in particular, the interoperability of the Union rail system.

(8) The railway regulatory framework at Union and Member State level should set clear roles and responsibilities for ensuring compliance with the safety, health and consumer protection rules applying to the railway networks. This Directive should not lead to a reduced level of safety or increase costs in the Union rail system. To that end, the European Union Agency for Railways (‘the Agency’) established by Regulation (EU) 2016/796 of the European Parliament and of the Council[(5)] and the national safety authorities should take full responsibility for the authorisations they issue.

(9) Major differences exist between national regulations, internal rules and technical specifications applicable to rail systems, subsystems and components, since they incorporate techniques that are specific to the national industries and lay down specific dimensions and devices as well as special characteristics. That situation may prevent trains from running without hindrance throughout the Union.

(10) In order to enhance their competitiveness at world level, the Union railway industries require an open and competitive market.

(11) It is therefore appropriate to define essential requirements relating to rail interoperability for the whole of the Union which should apply to its rail system.

(12) The development of technical specifications for interoperability ('TSIs') has shown the need to clarify the relationship between the essential requirements and TSIs on the one hand, and the European standards and other documents of a normative nature on the other. In particular, a clear distinction should be drawn between the standards or parts of standards which should be made mandatory in order to achieve the objectives of this Directive, and the harmonised standards that have been developed in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council[(6)]. Where strictly necessary, the TSIs may make an explicit reference to European standards or specifications, which become mandatory from the moment the TSI is applicable.

(13) In order to genuinely increase the competitiveness of the Union railway sector without distorting competition between key actors of the Union rail system, the TSIs and the recommendations of the Agency related to these TSIs should be drafted by respecting the principles of openness, consensus and transparency as defined in Annex II to Regulation (EU) No 1025/2012.

(14) The quality of rail services in the Union depends, inter alia, on excellent compatibility between the characteristics of the network (in the broadest sense, i.e. the fixed parts of all the subsystems concerned) and those of the vehicles (including the on-board components of all the subsystems concerned). Performance levels, safety, quality of service and cost depend upon that compatibility.

(15) TSIs have a direct or potential impact on the staff involved in the operation and maintenance of subsystems. When preparing TSIs, therefore, the Agency should consult social partners, where appropriate.

(16) A TSI should set out all the conditions with which an interoperability constituent is to conform, and the procedure to be followed in assessing conformity. In addition, it is necessary to specify that every constituent should undergo the procedure for assessing conformity and suitability for the use indicated in the TSIs and should have the corresponding certificate, comprising either the assessment of the conformity of an interoperability constituent, considered in isolation, to the technical specifications to be met, or the assessment of the suitability for use of an interoperability constituent, considered within its railway environment, in relation to the technical specifications.

(17) In the development of new TSIs, the aim should always be to ensure compatibility with the existing subsystems. This will help to promote the competitiveness of rail transport and prevent unnecessary additional costs through the requirement of upgrading or renewal of existing subsystems to ensure backward compatibility. In those exceptional cases where it will not be possible to ensure compatibility, it should be possible for TSIs to establish the framework necessary to decide whether the existing subsystem needs a new decision or authorisation for placing in service or placing on the market, and the corresponding deadlines.

(18) If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in a TSI, those aspects which still need to be addressed should be identified in an annex to that TSI as open points. For those open points, as well as for specific cases, and with the aim of compliance with the existing systems, national

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rules that may be adopted in a Member State by any competent national, regional or local authority should apply. To avoid redundant verifications and unnecessary administrative burdens, national rules should be classified to establish the equivalence between national rules of different Member States covering the same topics.

(19) The procedure to be followed in the case of essential requirements applicable to a subsystem which have not yet been covered in the corresponding TSI should be specified. In such a case, the bodies responsible for the conformity assessment and verification procedures should be the designated bodies referred to in this Directive.

(20) This Directive should apply to the entire Union rail system and the scope of the TSIs should be extended to cover the vehicles and networks not included in the trans-European rail system. Therefore, Annex I to Directive 2008/57/EC should be simplified.

(21) The functional and technical specifications to be met by subsystems and their interfaces may vary according to the use of the subsystems concerned, for example according to the categories of lines and vehicles, in particular for ensuring coherence between high-speed and conventional rail systems.

(22) In order to ensure the progressive implementation of rail interoperability within the whole of the Union and to gradually reduce the diversity of legacy systems, the TSIs should specify the provisions to be applied in the event of renewal or upgrading of existing subsystems and may include proposals for the staged completion of the target system. However, in order to keep the railway sector competitive and to prevent undue costs, the entry into force of new or amended TSIs should not lead to an immediate adaptation of vehicles and infrastructure to the new specifications.

(23) TSIs should indicate when the upgrade and renewal of infrastructure and vehicles requires a new authorisation. In all cases for the upgrade and renewal of infrastructure, the applicant should submit, through the one-stop shop referred to in Regulation (EU) 2016/796, a file to the national safety authority so that it can decide whether a new authorisation is needed on the basis of the criteria set out in this Directive. In the case of the upgrade and renewal of vehicles which have an authorisation to place on the market, the applicant should be able to decide whether it needs to seek a new authorisation from the national safety authority or the Agency on the basis of the criteria set out in this Directive.

(24) In view of the gradual approach to eliminating obstacles to the interoperability of the Union rail system and of the time consequently required for the adoption of TSIs, steps should be taken to avoid a situation where Member States adopt new national rules or undertake projects that increase the diversity of the present system.

(25) In order to eliminate the obstacles to interoperability, and as a consequence of extending the scope of the TSIs to the whole of the Union rail system, the volume of national rules should be progressively reduced. National rules strictly relating to existing systems should be differentiated from those needed to cover open points in TSIs. Rules of the latter type should be progressively removed as a result of closure of open points in the TSIs.

(26) National rules should be drafted and published in such a way that any potential user of a national network can understand them. Such rules often refer to other documents such as national standards, European standards, international standards or other technical specifications which might be partly or fully protected by intellectual property rights. Therefore, the obligation of publication should not apply to documents referred to directly or indirectly in the national rule.

(27) The adoption of a gradual approach satisfies the objective of interoperability of the Union rail system, which is characterised by old national infrastructure and vehicles requiring heavy investment for adaptation or renewal, and particular care should be taken to maintain the competitiveness of rail vis-à-vis other modes of transport.

(28) In view of the extent and complexity of the Union rail system, it has proved necessary, for practical reasons, to break it down into the following subsystems: infrastructure, trackside control-command and signalling, on-board control-command and signalling, energy, rolling stock, operation and traffic management, maintenance and telematics applications for passenger and freight services. For each of those subsystems, the essential requirements need to be specified and the technical specifications determined, particularly in respect of constituents and interfaces, in order to meet those essential requirements. The same system is broken down into fixed and mobile elements comprising, on the one hand, the network, which is composed of the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the system and, on the other hand, all vehicles travelling on that network. Therefore, for the purposes of this Directive, a vehicle is composed of one subsystem (rolling stock) and where applicable other subsystems (mainly the on-board control-command and signalling subsystem). Although the system is divided into several elements, the Agency should retain an overview of the system, in order to promote interoperability and safety.

(29) The United Nations Convention on the Rights of Persons with Disabilities, to which the Union is a party, establishes accessibility as one of its general principles and requires State Parties to take appropriate measures in order to ensure access for persons with disabilities on an equal basis with others, including by developing, promulgating and monitoring the implementation of minimum standards and guidelines for accessibility. Accessibility for persons with disabilities and persons with reduced mobility is therefore an essential requirement for the interoperability of the Union rail system.

(30) No person is to be discriminated against, either directly or indirectly, on the basis of a disability. In order to ensure that all Union citizens can enjoy the benefits resulting from the establishment of single European railway area, Member States should promote a railway system accessible to all.

(31) Implementation of the provisions on the interoperability of the Union rail system should not give rise to unjustified costs nor undermine the preservation of the interoperability of existing rail networks.