

DIRECTIVE 2001/13/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 February 2001

amending Council Directive 95/18/EC on the licensing of railway undertakings

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽⁴⁾, in the light of the joint text approved on 22 November 2000 by the Conciliation Committee,

Whereas:

(1) Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways⁽⁵⁾ provides for certain access rights in international rail transport for railway undertakings and international groupings of railway undertakings.

(2) To ensure dependable and adequate services, a common licensing scheme is necessary to ensure that all railway undertakings meet at any time certain requirements in relation to good repute, financial fitness and professional competence in order to protect customers and third parties and offer services observing a high standard of safety.

⁽¹⁾ OJ C 321, 20.10.1998, p. 8, and OJ C 116 E, 26.4.2000, p. 38.

⁽²⁾ OJ C 209, 22.7.1999, p. 22.

⁽³⁾ OJ C 57, 29.2.2000, p. 40.

⁽⁴⁾ Opinion of the European Parliament of 10 March 1999 (OJ C 175, 21.6.1999, p. 119), confirmed on 16 September 1999 (OJ C 54, 25.2.2000, p. 56), Council Common Position of 28 March 2000 (OJ C 178, 27.6.2000, p. 23) and Decision of the European Parliament of 5 July 2000 (not yet published in the Official Journal). Decision of the European Parliament of 1 February 2001 and Council Decision of 20 December 2000.

⁽⁵⁾ OJ L 237, 24.8.1991, p. 25. Directive as amended by Directive 2001/12/EC of the European Parliament and of the Council (see page 1 of this Official Journal).

(3) In order to ensure that access rights to railway infrastructure are applied throughout the Community on a uniform and non-discriminatory basis, Council Directive 95/18/EC⁽⁶⁾ introduced a licence for railway undertakings providing the services referred to in Article 10 of Directive 91/440/EEC, this licence being obligatory for the operation of such services and valid throughout the Community.

(4) Since some Member States have extended access rights going beyond Directive 91/440/EEC, it seems necessary to ensure fair, transparent and non-discriminatory treatment of all railway undertakings that may operate in this market by extending the licensing principles laid down by Directive 95/18/EC to all companies active in the sector.

(5) In order better to fulfil the information obligations, Member States and the Commission should ensure better information for all Member States and the Commission. Following common practice and a logical interpretation of Directive 95/18/EC, the information to be given by Member States and the Commission should also cover licenses issued.

(6) It is desirable to ensure that licensed railway undertakings that operate international goods transport respect the relevant customs and tax provisions applicable, in particular regarding customs transit.

(7) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of this Directive, namely to set out broad principles for the licensing of railway undertakings and the mutual recognition of such licences throughout the Community, cannot be sufficiently achieved by the Member States on account of the manifestly international dimension of issuing such licences and can therefore, by reason of its trans-national implications, be better achieved by the Community. This Directive does not go beyond what is necessary to achieve those objectives.

(8) Directive 95/18/EC should be amended accordingly,

⁽⁶⁾ OJ L 143, 27.6.1995, p. 70.