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**A5-0441/2002**

5 December 2002

## **\*\*\*I** **REPORT**

on the proposal for a European Parliament and Council regulation on  
establishing a European Railway Agency  
(COM(2002)23 – C5-0046/2002 – 2002/0024(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Gilles Savary

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 24 January 2002 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 71(1) of the EC Treaty, the proposal for a European Parliament and Council regulation on establishing a European Railway Agency (COM(2002)23 – 2002/0024 (COD)).

At the sitting of 27 February 2002 the President of Parliament announced that she had referred this proposal to the Committee on Regional Policy, Transport and Tourism as the committee responsible and the Committee on Budgets, Committee on Budgetary Control, Committee on Legal Affairs and the Internal Market and the Committee on Industry, External Trade, Research and Energy for their opinions (C5-0046/2002).

The Committee on Regional Policy, Transport and Tourism had appointed Gilles Savary rapporteur at its meeting of 21 February 2002.

It considered the Commission proposal and draft report at its meetings of 11 July, 4-5 November and 27 November 2002.

At the latter meeting it adopted the draft legislative resolution by 50 votes to 0, with 1 abstention.

The following were present for the vote: Luciano Caveri, chairman; Rijk van Dam and Helmuth Markov, vice-chairmen, Gilles Savary, rapporteur and vice-chairman, Sylviane H. Ainaridi, Emmanouil Bakopoulos, Rolf Berend, Philip Charles Bradbourn, Felipe Camisón Asensio, Luigi Cocilovo, Danielle Darras, Jean-Maurice Dehousse (for Wilhelm Ernst Piecyk), Jan Dhaene, Den Dover (for Christine de Veyrac), Garrelt Duin, Giovanni Claudio Fava, Jacqueline Foster, Mathieu J.H. Grosch, Catherine Guy-Quint (for John Hume), Konstantinos Hatzidakis, Ewa Hedkvist Petersen, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Karsten Knolle (for Ingo Schmitt), Dieter-Lebrecht Koch, Giorgio Lisi, Nelly Maes, Emmanouil Mastorakis, Véronique Mathieu (for Alain Esclopé, pursuant to Rule 153(2)), Erik Meijer, James Nicholson, Camilo Nogueira Román, Josu Ortuondo Larrea, Karla M.H. Peijs, Giovanni Pittella, Samuli Pohjamo, Bernard Poignant, Reinhard Rack, Carlos Ripoll y Martínez de Bedoya, Dana Rosemary Scallon, Agnes Schierhuber (for Francesco Musotto), Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Hannes Swoboda (for Mark Francis Watts), Roseline Vachetta (for Alonso José Puerta), Joaquim Vairinhos, Ari Vatanen, Herman Vermeer and Brigitte Wenzel-Perillo (for José Javier Pomés Ruiz).

The opinion of the Committee on Budgets is attached; the Committee on Budgetary Control, the Committee on Legal Affairs and the Internal Market and the Committee on Industry, External Trade, Research and Energy decided on 16 April 2002 and 27 March 2002 respectively not to deliver an opinion.

The report was tabled on 5 December 2002.

## DRAFT LEGISLATIVE RESOLUTION

### European Parliament legislative resolution on the proposal for a European Parliament and Council regulation on establishing a European Railway Agency (COM(2002)23 – C5-0046/2002 – 2002/0024(COD))

#### (Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2002) 23<sup>1</sup>),
  - having regard to Article 251(2) of the EC Treaty and Article 71(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0046/2002),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinion of the Committee on Budgets (A5-0441/2002),
1. Approves the Commission proposal as amended;
  2. Considers that this is a new action whose financing is compatible with the ceilings of heading 3 of the current financial perspective and with no reduction of other policies.
  3. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
  4. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1  
Recital 6 a (new)

***6 a. In order to take accompanying measures and promote the formation of a European railway area without borders, and to help revive the railway sector while reinforcing its indispensable advantages in terms of safety, the European Railway Agency should contribute to the development of a genuine European railway culture and form an essential tool of dialogue, consultation and exchange***

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<sup>1</sup> OJ C 126E, 28.5.2002, p. 323.

***between all the actors in the railway world, while respecting each other's skills.***

*Justification*

*The creation of a European railway area without borders will only be successful if all operators in the railway world manage to go beyond the framework of what is still an approach characterised too much by national thinking. In this respect, the Agency could be the crucible from which a European railway culture emerges through dialogue and consultation. However, it needs to be ensured that this movement is not accompanied by an excessive segmentation of the current safety tasks, since integration of these tasks has clearly proved its worth and is a guarantee of reliability. Similarly, priority should be given to the separation of railway operations rather than to the simple de-integration of safety checks and implementation.*

Amendment 2  
Recital 6b (new)

***(6b) Within the framework of this directive, the organisations representing the sector are the representatives of the railway companies, the representatives of the railway infrastructure managers, the representatives of the staff of the railway companies and the representatives of the railway industries and the representatives of rail freight users.***

*Justification*

*This definition is needed to remove any possible ambiguity.*

Amendment 3  
Recital 15

The vocational qualifications required for train drivers are a major factor in both safety and interoperability in Europe. They are also a precondition for the free movement of workers in the railway industry. This question must be tackled with respect for the existing framework for social dialogue. The ***Agency must provide the*** technical support necessary in order to take account of this aspect at European

The vocational qualifications required for train drivers are a major factor in both safety and interoperability in Europe. They are also a precondition for the free movement of workers in the railway industry. This question must be tackled with respect for the existing framework for social dialogue. The ***European Union delegates, under its responsibility,*** the technical support necessary ***to the Agency***

level.

in order to take account of this aspect at European level.

### *Justification*

*The agencies are Community bodies created by Community regulation to implement Community tasks. The Commission delegates to decentralised agencies specific and technical tasks under the provisions laid down by the Treaty and must ensure political and budgetary control over these bodies.*

### Amendment 4 Recital 19

In order to perform its tasks properly, the Agency must have legal personality and an autonomous budget funded mainly through a contribution by the Community. In order to ensure the ***Agency's independence in its*** daily management and in the opinions and recommendations which it issues, the Executive Director should ***have*** full responsibility ***and*** the Agency's ***personnel should be independent.***

In order to perform its tasks properly, the Agency must have legal personality and an autonomous budget funded mainly through a contribution by the Community. In order to ensure the ***control over the Agency's*** daily management and in the opinions and recommendations which it issues, the Executive Director should ***be delegated*** full responsibility ***on*** the Agency's ***establishment plan once agreed by the budgetary authority.***

### *Justification*

*Decentralised agencies have increased their staff by 366% between 1995 and 2001 with a significant budgetary impact in particular on pensions. The Parliament should therefore maintain its control on the organigrammes as requested in EP's opinion on the recasting of the Financial Regulation.*

### Amendment 5 Recital 20

(20)The membership of the Agency's administrative board must reflect the balance between the two branches of the Community's executive and safeguard the principle of the executive's responsibility before the European Parliament. Based on the principles proposed in the White Paper on European governance (2), the Commission and the Member States must therefore be equally represented on an

(20)The membership of the Agency's administrative board must reflect the balance between the two branches of the Community's executive and safeguard the principle of the executive's responsibility before the European Parliament. Based on the principles proposed in the White Paper on European governance (2), the Commission and the Member States must therefore be equally represented on an

administrative board with the powers necessary to draw up the budget, verify its implementation, adopt appropriate financial rules, set up transparent working procedures for the Agency's decisions and appoint the Executive Director. In order to guarantee the transparency of the administrative board's decisions, representatives of the sectors concerned must participate in the deliberations, but without the right to vote, which is reserved for the representatives of public authorities who must answer to the democratic control authorities. ***These independent members must be designated by the Commission on the basis of their merit and experience in the railway industry and not as representatives of any particular trade associations.***

administrative board with the powers necessary to draw up the budget, verify its implementation, adopt appropriate financial rules, set up transparent working procedures for the Agency's decisions and appoint the Executive Director. In order to guarantee the transparency of the administrative board's decisions, representatives of the sectors concerned (***railway companies, infrastructure managers, railway industry, trade unions representing railway companies staff and the representatives of the rail freight users***) must participate in the deliberations, but without the right to vote, which is reserved for the representatives of public authorities who must answer to the democratic control authorities. ***The representatives of the sectors concerned shall be appointed by their respective European professional organisations.***

#### *Justification*

*Through its technical duties, the Agency must favour the emergence of a European railway culture, which is currently still too much neutralised by national thinking. To that end it is important for all operators in the railway world to be recognised and represented. Accordingly that choice of qualified persons cannot be left to the sole discretion of the Commission. It is important, in the interest of consultation and dialogue, but also of efficiency, that these qualified persons should be required to be representative of the diversity of the railway sector and that there should be four of them: one qualified person representing the railway companies; one qualified person representing infrastructure managers; one qualified person representing the railway industries; and one qualified person representing the staff of the railway companies (staff being an integral part of the operational implementation of safety and interoperability).*

*This proposal take over the position taken by the European Parliament during the debates on the European Food Safety Agency.*



Amendment 6  
Recital 21

The Agency's work must be transparent and its management must be subject to all the existing provisions concerning sound management and combating fraud. The effective control of the European Parliament must be ensured and, to this end, the European Parliament must have **the possibility of** a hearing with the Executive Director of the Agency.

The Agency's work must be transparent and its management must be subject to all the existing provisions concerning sound management, **budgetary procedures** and combating fraud. The effective control of the European Parliament must be ensured and, to this end, the European Parliament must have a hearing with the Executive Director of the Agency.

*Justification*

*The agencies are Community bodies created by Community regulation to implement Community tasks. The Commission delegates to decentralised agencies specific and technical tasks under the provisions laid down by the Treaty and must ensure political and budgetary control over these bodies.*

Amendment 7  
Recital 21 a (new)

***whereas over the past years, as more decentralised agencies were created, the budgetary authority has looked to improve transparency and control over the management of Community funding allocated to them, in particular concerning budgetisation of the fees, financial control, power of discharge, contribution to the pension scheme and internal budgetary procedure (code of conduct);***

*Justification*

*Given that decentralised Agencies are implementing EU policies, employ an increasing number of staff and are fully or partially dependent on a Community subsidy, the general budgetary procedures should apply to them.*

Amendment 8  
Article 1, point 1

This Regulation establishes a European Railway Agency, hereinafter referred to as "the Agency".

This Regulation establishes a European Railway Agency, hereinafter referred to as the Agency ***placed under the direct responsibility of the European Union.***

Amendment 9  
Article 1, paragraph 2

2. The objective of the Agency shall be to contribute, on technical matters, to implementation of the Community legislation aiming at enhancing the level of interoperability of railway systems and at developing a common approach to safety on the European railway system, in order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.

2. The objective of the Agency shall be to contribute, on technical matters, to implementation of the Community legislation aiming at ***improving the competitiveness of the railway sector and*** enhancing the level of interoperability of railway systems and at developing a common approach to safety on the European railway system, in order to contribute to creating a European railway area without frontiers and guaranteeing a high level of safety.

*Justification*

*Explicit reference should be made to this Agency objective.*

Amendment 10  
Article 1, paragraph 3

3. In pursuing these objectives, the Agency shall take full account of the process of enlargement of the European Union ***and*** of the specific constraints relating to rail links with third countries.

3. In pursuing these objectives, the Agency shall take full account of the process of enlargement of the European Union, ***involving representatives of the candidate countries in its work. It shall also take account*** of the specific constraints relating to rail links with third countries.

### *Justification*

*Self-explanatory. The importance of enlargement requires that, on subjects such as interoperability and safety, involving large long-term investments, the candidate countries should be involved in the Agency's work from the outset.*

### Amendment 11

Article 1, paragraph 3 a (new)

***3a. On the basis of a mandate from the European Commission, the Agency shall implement all the provisions on observation, statistical collection of data bases and information on rail transport contained in Community legislation on the rail sector.***

### *Justification*

*This amendment seeks to broaden the tasks of the Agency and prevent duplication, particularly by ensuring clearer compatibility between its purpose as a resources, observation and statistical monitoring centre conferred on the Railway Agency by this Regulation, and the control tasks conferred on the Commission under Article 10b of Directive 2001/12 or the draft regulation on statistics regarding rail transport (COM(2000)798) currently under discussion. To that end, it is proposed that the Agency's observation and monitoring tasks should be broadened beyond the fields of security and interoperability, to cover all statistical data on railways.*

### Amendment 12

Article 1, paragraph 3b (new)

***3b. The Agency shall have sole responsibility in the context of the functions and powers assigned to it by law. The allocation of similar functions and powers to national offices is accordingly ruled out.***

### *Justification*

*It is necessary to stipulate the sole responsibility of the Agency in the context of the functions and powers assigned to it by law, in order to prevent duplication with existing competences of national bodies of individual Member States. This amendment seeks to rule out similar powers being exercised at Member State level and to effectively combat the risk of creating dual responsibilities, parallel sets of rules, longer decision-making processes and increased administrative work for the railway companies.*

### Amendment 13 Article 1, paragraph 3c (new)

***3c. The Agency must operate transparently and wholly independent of the interested parties.***

### *Justification*

*The independence of the Agency is an essential prerequisite if the Agency is to perform the functions assigned to it.*

### Amendment 14 Article 3

#### ***Participation of professionals from the sector***

1. For drawing up the recommendations provided for in Articles 6, 7, 12, 14, 16, 17 and 18, the Agency shall take as a basis the expertise built up by professionals from the sectors, in particular the experience gained by the European Association for Railway Interoperability (AEIF).

2. To this end, ***following adoption of the annual work programme***, the Agency shall ***agree on the composition of the working***

#### ***Composition of the working parties***

1. For drawing up the recommendations provided for in Articles 6, 7, 12, 14, 16, 17 and 18, the Agency shall ***establish working parties. These working parties shall*** take as a basis, ***on the one hand***, the expertise built up by professionals from the sectors, in particular the experience gained by the European Association for Railway Interoperability (AEIF), ***and, on the other hand, the expertise of the competent national authorities. The Agency shall ensure that these working parties are representative, competent and work transparently.***

2. To this end, the Agency shall ***forward the adopted work programme to the organisations representing the sector. Each***

*parties with the professional organisations from the sector, which shall put forward proposals to the Agency for that purpose. The Agency shall ensure that these working parties are representative and work transparently.*

*organisation and/or group of organisations shall forward to the Agency a list of the most qualified experts.*

*The national safety authorities defined in Article 15 of Directive 2004/49/EC concerning safety on the Community's railways shall appoint the experts for the working parties in which they wish to participate.*

*The Agency may, if necessary, add to the working parties independent experts recognised as competent in the field concerned.*

*Whenever the work provided for in Articles 6, 12 and 17 has a direct impact on the working conditions, health and safety of workers in the industry, representative from the workers' organisations shall participate in the related working parties.*

3. The working parties shall be chaired by a representative of the Agency.

3. The working parties shall be chaired by a representative of the Agency.

Or. en

Amendment 15  
Article 4, first paragraph

Whenever the work provided for in Articles 6, 12 and 17 has a direct impact on the social environment or working conditions of workers in the industry the Agency shall consult the social partners within the framework of the social dialogue committee.

Whenever the work provided for in Articles 6, 12, **16** and 17 has a direct impact on the social environment or working conditions of workers in the industry the Agency shall consult the social partners within the framework of the social dialogue committee.

*Justification*

*Broadens the scope of application of the consultation of the social partners to cover measures relating to the harmonisation of safety certificates (Article 7) and the certification of maintenance workshops (Article 16) in view of the impact of these measures on working*

*conditions and the social environment, particularly in the run-up to the enlargement of the European Union.*

Amendment 16  
Article 4, second paragraph

These consultations shall be held before the Agency submits its recommendations to the Commission. The opinions expressed by the social dialogue committee shall be forwarded by the Agency to the Commission and by the Commission to the committee referred to in Article 21 of Directive 2001/16/EC.

These consultations shall be held before the Agency submits its recommendations to the Commission. The opinions expressed by the social dialogue committee shall be forwarded by the Agency to the Commission and by the Commission to the committee referred to in Article 21 of Directive 2001/16/EC **and Directive 96/48, as amended by Directive xxx (interoperability), and in Article 26 of Directive xxx (rail safety).**

*Justification*

*This amendment also seeks to specify that Article 4 of this regulation does indeed cover the fields of both the two interoperability directives (high speed and conventional) and the safety directive.*

Amendment 17  
Article 5, second paragraph

Whenever the work provided for in Articles 6 and 12 has a direct impact on customers the Agency shall consult the organisations representing rail freight users and customers. The list of organisations to be consulted shall be drawn up by the committee referred to in Article 21 of Directive 2001/16/EC.

Whenever the work provided for in Articles 6 and 12 has a direct impact on customers the Agency shall consult the organisations representing rail freight users and customers. The list of organisations to be consulted shall be drawn up by the committee referred to in Article 21 of Directive 2001/16/Ecb **and Directive 96/48, as amended by Directive xxx (interoperability), and in Article 26 of Directive xxx (rail safety).**

### *Justification*

*This amendment also seeks to specify that Article 5 of this regulation does indeed cover the fields of both the two interoperability directives (high speed and conventional) and the safety directive.*

### Amendment 18 Article 5, second paragraph

These consultations shall be held before the Agency submits its proposals to the Commission. The opinions expressed by the organisations concerned shall be forwarded by the Agency to the Commission and by the Commission to the committee referred to in Article 21 of Directive 2001/16/EC.

These consultations shall be held before the Agency submits its proposals to the Commission. The opinions expressed by the organisations concerned shall be forwarded by the Agency to the Commission and by the Commission to the committee referred to in Article 21 of Directive 2001/16/EC **and Directive 96/48, as amended by Directive xxx (interoperability), and in Article 26 of Directive xxx (rail safety).**

### *Justification*

*This amendment also seeks to specify that Article 5 of this regulation does indeed cover the fields of both the two interoperability directives (high speed and conventional) and the safety directive.*

### Amendment 19 Article 5 a (new)

#### ***Article 5 a***

#### ***Creation of advisory committees***

***Two permanent advisory committees shall be set up within the Agency:***

***a. to facilitate the implementation of Article 6(4) of this Regulation, a committee of national safety authorities***

*and inspection bodies as referred to in Directive xxx (on rail safety).*

*b. to facilitate the implementation of Article 9 of this regulation, a committee of national inquiry authorities as referred to in Directive xxx (on rail safety).*

*These committee shall meet at least once a year and, where necessary, at the initiative of the executive director of the Agency, to assist the Agency in the performance of its tasks.*

#### *Justification*

*In order for the Agency to promote the emergence of a European rail culture, through dialogue and consultation, it is important that it should be a channel for exchanges between the various national authorities in the safety field. It is therefore important that the Agency should be encouraged to meet regularly, since this can only facilitate the performance of its tasks.*

#### Amendment 20 Article 7

With a view to application of Article 14 of the Directive on railway safety concerning the harmonisation of safety certificates, the Agency shall draft ***and recommend*** a harmonised format for safety certificates, including an electronic version, and a harmonised format for applications for safety certificates, ***including the list of the essential details to be provided.***

With a view to application of Article 14 of the Directive on railway safety concerning the harmonisation of safety certificates, the Agency shall draft a harmonised format for safety certificates, including an electronic version, and a harmonised format for applications for safety certificates, including the list of the essential details to be provided. ***The Agency shall create the framework conditions for the uniform issuing of safety certificates, within which the national safety bodies are to act. In this context the national safety bodies must act independently of the national railway companies.***

#### *Justification*

*Powers relating to safety certificates must be clearly defined for all those involved.*



Amendment 21  
Article 16

The Agency shall develop a European system for certification of maintenance workshops for rolling stock and shall make recommendations with a view to implementation of such a system.

The Agency shall develop a European system for certification of maintenance workshops for rolling stock and shall make recommendations, ***taking full account of the objective of a high level of safety***, with a view to implementation of such a system.

*Justification*

*In the light of the essential role of maintenance workshops in preserving a high level of safety, it is important to recall that the certification system put in place must take full account of this objective.*

Amendment 22  
Article 17, paragraph 1

1. The Agency shall set out the essential qualifications required in order to drive trains as well as the training systems. ***It shall distinguish between the general qualifications required for each major type of rolling stock and the qualifications specific to each line and each piece of equipment.***

1. The Agency, ***in cooperation with the social partners***, shall set out the essential qualifications required in order to drive trains ***and perform the duties of train attendants, network managers and dispatchers, employees in repair shops and train assembly workers*** as well as the training systems.

***In so doing it shall base itself on the fundamental requirements set out in Article 12 of the European Parliament and Council Directive on railway safety.***

*Justification*

*It is essential to call upon the knowledge of the social partners in order to ensure consistency in devising and further developing not only technical requirements but also those relating to health and safety at work. Restricting the text to only one group of employees is counter-productive, since rail traffic is a compound product in which infrastructure and traffic management (including staff) must act together as effectively as possible. Similarly, comprehensive account must be taken of the rules set out in the safety directive.*

*Interoperability and safety measures have an impact on numerous jobs, not just on train drivers. In order to ensure a high level of reliability and safety, the scope of this article therefore needs to be broadened*

*The Agency must have a clear role to play in the matter of vocational qualifications.*

Amendment 23  
Article 17, paragraph 2

2. For the general qualifications, the Agency shall **compile**, by major type of equipment, the minimum qualifications and training required for drivers in order to ensure safe operation.

2. For the general qualifications, the Agency shall **determine**, by major type of equipment, the minimum qualifications and training required for drivers in order to ensure safe operation.

*Justification*

*The Agency must have a clear role to play in the matter of vocational qualifications.*

Amendment 24  
Article 17, paragraph 3

3. The Agency shall make recommendations with a view to putting in place a system for accreditation of training ***institutes and of the diplomas which they issue.***

3. The Agency shall make recommendations with a view to putting in place a system for accreditation of training ***facilities, without prejudice to the full responsibility of each railway company to authorise and recognise the aptitude of its on-train staff.***

***In any event, the accreditation system must take into account the various aspects of training necessary for driving a train safely.***

***In other words, general training (which may be a core curriculum) and sectoral training, i.e. ensuring familiarity with the engine, the specific nature of the line on which it will be driven, and a degree of continuous training vital to cover the various changes in technology and in the line.***

*Justification*

*It should be made clear that the responsibility of the relevant authorities does not end with accreditation.*

*For safety reasons, training cannot be seen solely in terms of university studies. It must also involve essential aspects such as knowledge of equipment and of the specific features of the lines themselves.*

*The Agency must have a clear role to play in the matter of vocational qualifications.*

Amendment 25  
Article 19, (d) a (new)

***(d) a. Rolling stock maintenance workshops.***

*Justification*

*In view of the Agency's role in the certification of maintenance workshops (Article 16), the scope of this article should be enlarged. The availability of this information will be useful to everyone.*

Amendment 26  
Article 19, (d) b (new)

***(d) b. Training facilities***

*Justification*

*In view of the Agency's role in the definition of professional qualifications (Article 17), the scope of this article should be enlarged. The availability of this information will be useful to everyone.*

Amendment 27  
Article 20, paragraph 1 a (new)

***The Agency may also, at the request of the European Commission, the European Parliament or the Council of Ministers carry out studies.***

*Justification*

*It is important that all the European institutions should be able to benefit from the expertise which will be available to the Agency and that, thanks to the Agency, they should be able to have access to studies on topical issues if they wish.*

Amendment 28  
Article 26, paragraph 1

1. The Executive Director of the Agency shall be appointed by the administrative board on a proposal by the Commission.

1. The Executive Director of the Agency shall be appointed by the administrative board on a proposal by the Commission.  
***The proposal should include, if possible, the need for a financial contribution from the host Member State.***

*Justification*

*Agencies seats have become a contentious issue between the institutions and among the Member States. EP has pointed out the cost of delaying the decisions as the agencies have to start on a temporary basis before being transferred to the final location. In some cases, Member States have contributed to the setting up of the Agency by providing land or a building. Such a contribution not only involves the Member States concerned but also represents savings for the EU budget.*

Amendment 29  
Article 24, paragraph 3, first indent

- staff recruited from among professionals from the sector on the basis of their qualifications and experience in the field of railway safety and interoperability;

- staff recruited from among professionals from the sector on the basis of their qualifications and experience in the field of railway safety ***(in particular as regards***

*health and safety of staff at the workplace)*  
and interoperability;

*Justification*

*Problems relating to the safety and health of staff should be a constant focus of attention.*

Amendment 30  
Article 24, 3a (new)

***The establishment plan of the Agency is published in the Budget after its final adoption by the Budgetary authority.***

*Justification*

*For reasons of budgetary transparency and harmonisation with the first two agencies (Dublin Foundation and Cedefop), the establishment plans of all agencies as adopted by the budgetary authority should be annexed to the general budget.*

Amendment 31  
Article 25

Duties and powers of the Executive Director

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties, without prejudice to the respective competencies of the Commission and the Administrative Board.

***2. The Executive Director shall:***

***(a) prepare the work programme and, after agreement by the Commission, submit it to the administrative board;***

Duties and powers of the Executive Director

***deleted***

***2. The Executive Director shall have the following duties and powers:***

***(a) he/she shall prepare the work programme and submit it to the Administrative Board after consultation of the Commission. He/she shall take the necessary steps for its implementation.***

*(b) make the necessary arrangements for implementation of the work programme and comply with all requests for assistance from the Commission;*

*(c) take the necessary steps, in particular the adoption of internal administrative instructions and the publication of orders, to ensure the operation of the Agency in accordance with this Regulation;*

*(d) establish an effective monitoring system in order to compare the Agency's results with its operational objectives and, on this basis, prepare each year a draft general report and submit it to the administrative board;*

*(e) establish a regular assessment system corresponding to recognised professional standards;*

*(f) exercise the powers laid down in Article 23(2) in respect of the staff;*

*(g) draw up estimates of the revenue and expenditure of the Agency pursuant to Article 38 and implement the budget pursuant to Article 39.*

*3. The Executive Director may be assisted by one or more heads of unit. The Executive Director may not delegate the powers conferred on him.*

*He/she shall respond to any requests for assistance from the Commission or from a Member State;*

*(b) he/she shall decide to carry out the visits provided for in Article 3, after consultation of the Commission and following the policy established by the Administrative Board according to Article 10(2)(g);*

*(c) he/she shall take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;*

*(d) he/she shall organise an effective monitoring system in order to be able to compare the Agency's achievements with its operational objectives. On this basis the Executive Director shall prepare a draft general report each year and submit it to the Administrative Board. He/she shall establish regular evaluation procedures that meet recognised professional standards;*

*(e) he/she shall exercise, in respect of the staff, the powers laid down in Article 24(2);*

*(f) he/she shall draw up estimates of the Agency's revenue and expenditure, in accordance with Article 38, and shall implement the budget in accordance with Article 39*

*3. The Executive Director may be assisted by one or more Heads of Unit. If the Executive Director is absent or indisposed, one of the heads of unit shall take his place.*

### *Justification*

*Deleted because the functions and powers of the Executive Director are not in line with those of the European Maritime Safety Agency, where greater stress is laid upon expertise.*

*The duties and powers of the Director of the European Railway Agency should be in line with those of the Director of the European Maritime Safety Agency.*

### Amendment 32

#### Article 26, paragraph 1

1. The Executive Director of the Agency shall be appointed by the administrative board on a proposal by the Commission. The administrative board, ***acting on a proposal by the Commission***, shall have the power to dismiss the Executive Director. The term of office of the Executive Director shall be five years. This term of office may be extended once for a maximum of a further two years.

1. The Executive Director of the Agency shall be appointed, ***on the grounds of merit as well as competence and experience in the field of railway safety and interoperability***, by the administrative board on a proposal by the Commission. ***The Commission may propose one or more candidates. The European Parliament may hear the candidates and issue an opinion.*** The administrative board, acting on a proposal by the Commission, shall have the power to dismiss the Executive Director. ***The Commission may make a proposal to that effect. The European Parliament may issue an opinion on the proposal to dismiss the Executive Director.*** The term of office of the Executive Director shall be five years. This term of office may be extended once for a maximum of a further two years.

### *Justification*

*This amendment seeks to step up the possibilities for democratic control exercised by the European Parliament over the Agency. In view of the key role of the Executive Director in the operation of the Agency, it seems in accordance with the institutional balance that the European Parliament should be involved in his appointment or dismissal.*

Amendment 33  
Article 28, paragraph 1

The Agency shall have an administrative board.

The Agency shall have an administrative board ***chaired by the Commission***.

*Justification*

*The agencies are Community bodies created by Community regulation to implement Community tasks. The Commission delegates to decentralised agencies specific and technical tasks under the provisions laid down by the Treaty and must ensure political and budgetary control over these bodies.*

Amendment 34  
Article 28, paragraph 2 (b)

(b) before 31 March each year, adopt the general report of the Agency for the previous year and submit it to the Commission, the Council and the European Parliament;

(b) before 31 March each year, adopt the general report of the Agency for the previous year and submit it ***no later than 15 June*** to the Commission, the Council and the European Parliament, ***the Court of Auditors and the Member States***;

*Justification*

*This amendment reinstates the provisions adopted in the context of the sea safety agency.*

Amendment 35  
Article 29, paragraph 1, 3rd indent

—***three independent*** members, with no vote, appointed by ***the Commission for their recognised expertise in the sector***.

—***five qualified representative*** members, with no vote, appointed by ***their European professional organisations***:  
- ***a representative of the rail companies***  
- ***a representative of the rail infrastructure managers***  
- ***a representative of the rail industries***



**- a representative of rail company staff.**

*Justification*

*Through its technical duties, the Agency must favour the emergence of a European railway culture, which is currently still too much neutralised by national thinking. To that end it is important for all operators in the railway world to be recognised and represented. Accordingly that choice of qualified persons cannot be left to the sole discretion of the Commission. It is important, in the interest of consultation and dialogue, but also of efficiency, that these qualified persons should be required to be representative of the diversity of the railway sector and that there should be four of them: one qualified person representing the railway companies; one qualified person representing infrastructure managers; one qualified person representing the railway industries; and one qualified person representing the staff of the railway companies (staff being an integral part of the operational implementation of safety and interoperability).*

*This proposal take over the position taken by the European Parliament during the debates on the European Food Safety Agency.*

Amendment 36  
Article 29 a (new)

***When appropriate, the participation of representatives of third countries and the conditions thereof shall be established in the Rules of Procedure.***

*Justification*

*Composition of the Administrative Board is thus brought into line with that of the European Maritime Safety Agency.*

Amendment 37  
Article 33

***1. In order to fulfil the tasks entrusted to it by Articles 8, 9, 10, 13 and 15, the Agency may, at the request of the Commission, conduct inspections in the Member States. The national authorities in the Member States shall facilitate the work of the Agency's staff to ensure that the***

***Visits to Member States***

***1. In order to perform the tasks entrusted to it, the Agency may carry out visits to the Member States in accordance with the policy defined by the Administrative Board. The national authorities of the Member***

*inspections proceed smoothly. The Agency officials shall be empowered:*

*(a) to examine files, data, reports and any other documents relevant to implementation of the Community legislation on railway interoperability and safety;*

*(b) to take copies of all or extracts from such files, data, reports and other documents;*

*(c) to ask for oral explanations on the spot;*

*(d) to have access to any premises, site or means of transport.*

*2. The Agency shall inform the Member State concerned of the planned inspection, the names of the delegated officials and the date on which the inspection is due to start. The Agency officials delegated to carry out these inspections shall exercise their powers on presentation of a decision from the Executive Director of the Agency specifying the subject-matter and purpose of their mission.*

*3. At the end of each inspection, and after having listened to the entities inspected, the Agency shall draw up a report and send it to the Commission and to the Member State concerned.*

*shall apply to the documents held by the Agency.*

*States shall facilitate the work of the Agency's staff*

*.*

*2. The Agency shall inform the Member State concerned of the planned visit, the names of the delegated officials, and the date on which the visit starts. The Agency officials delegated to carry out such visits shall do so on presentation of a decision from the Executive Director of the Agency specifying the purpose and the aims of their mission.*

*3. At the end of each visit, the Agency shall draw up a report and send it to the Commission and to the Member State concerned.*

#### *Justification*

*Deleted in order to bring the inspections in Member States into line with the provisions of the European Maritime Safety Agency.*

*Inspection visits to the Member States by the European railway agency are thus brought into line with those of the European Maritime Safety Agency.*

#### Amendment 38 Article 35, paragraph 1

*1. The in-house working languages of the*

*1. The provisions of Regulation No 1 of*

*Agency shall be English, French and German. The Member States may address the Agency in the Community language of their choice.*

*15 April 1958 determining the languages to be used in the European Economic Community, shall apply to the Agency.*

*Justification*

*Equality of Community languages must be guaranteed in relation to the Agency as elsewhere.*

Amendment 39  
Article 37, first paragraph

Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents shall apply to the documents held by the Agency.

***European Parliament and Council***  
Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents shall apply to the documents held by the Agency.

*Justification*

*Seeks to clarify and extend the rights of recourse in accordance with the most recent European provisions in force on public access to documents.*

Amendment 40  
Article 37, second paragraph

The administrative board shall adopt the practical ***measures for implementation of*** Regulation (EC) No 1049/2001.

The administrative board shall adopt the practical ***implementation arrangements for*** Regulation (EC) No 1049/2001 ***within six months from the entry into force of this Regulation.***

*Justification*

*Seeks to clarify and extend the rights of recourse in accordance with the most recent European provisions in force on public access to documents.*

Amendment 41  
Article 37, second paragraph a (new)

***The decisions taken by the Agency pursuant to Article 8 of Regulation (EC) 1049/2001 shall be subject to appeal remedies, namely the bringing of a complaint to the Ombudsman or recourse to the Court of Justice, under the conditions set out in Article 195 and 230 respectively of the EC Treaty.***

*Justification*

*Seeks to clarify and extend the rights of recourse in accordance with the most recent European provisions in force on public access to documents.*

Amendment 42  
Article 38, point 1

The revenue of the Agency shall consist of:

- a contribution from the Community;
- any contribution from third countries participating in the work of the Agency, as provided for by Article 35;
- charges for publications, training and any other services provided by the Agency.

The revenue of the Agency shall consist of:

- a contribution from the Community;
- any contribution from third countries participating in the work of the Agency, as provided for by Article 35;
- charges for publications, training and any other services provided by the Agency.

***The Agencies' contribution to the pensions are entered directly in the revenue part of the Commission budget.***

*Justification*

*Since the common statement of 17 November 1995 by the Parliament and the Council, the Agencies have been required to set up transparent internal procedures in parallel to the general budgetary procedure in order to monitor the Community subsidy and the evolution of the organigrammes. For reasons of budgetary transparency and harmonisation with the first two agencies (Dublin Foundation and Cedefop), the establishment plans of all agencies as adopted by the budgetary authority should be annexed to the general budget.*

Amendment 43  
Article 38, point 5

The administrative board shall adopt, by 31 March at the latest, the draft **budget** for the following financial year and submit it to the Commission, which, on this basis, shall enter the corresponding estimates in the preliminary draft general budget of the European Communities, which it shall submit to the Council in accordance with Article 272 of the Treaty.

The administrative board shall adopt, by 31 March at the latest, the draft **estimates including the provisional establishment plan accompanied by the preliminary work programme** for the following financial year and submit it to the Commission, which, on this basis, shall enter the corresponding estimates in the preliminary draft general budget of the European Communities, which it shall submit to the Council in accordance with Article 272 of the Treaty.

*Justification*

*Since the common statement of 17 November 1995 by the Parliament and the Council, the Agencies have been required to set up transparent internal procedures in parallel to the general budgetary procedure in order to monitor the Community subsidy and the evolution of the organigrammes. For reasons of budgetary transparency and harmonisation with the first two agencies (Dublin Foundation and Cedefop), the establishment plans of all agencies as adopted by the budgetary authority should be annexed to the general budget.*

Amendment 44  
Article 38, point 6

**The** administrative board shall adopt, **by 15 January at the latest**, the Agency's budget, adjusting **it**, where necessary, to the Community contribution **decided by the budgetary authority**.

**After the adoption of the general Budget by the budgetary authority, the** administrative board shall adopt the Agency's **final budget and work programme**, adjusting **them**, where necessary, to the Community contribution. **It forwards them without delay to the Commission and to the budgetary authority.**

*Justification*

*Since the common statement of 17 November 1995 by the Parliament and the Council, the Agencies have been required to set up transparent internal procedures in parallel to the*

*general budgetary procedure in order to monitor the Community subsidy and the evolution of the organigrammes.*

Amendment 45  
Article 38, point 6 a (new)

***Any modification to the budget, including establishment plan, shall follow the procedure of paragraph 5.***

*Justification*

*Since the common statement of 17 November 1995 by the Parliament and the Council, the Agencies have been required to set up transparent internal procedures in parallel to the general budgetary procedure in order to monitor the Community subsidy and the evolution of the organigrammes.*

Amendment 46  
Article 38, point 6 b (new)

***The establishment plan of the Agency is authorised by the Budget of the Union.***

*Justification*

*For reasons of budgetary transparency and harmonisation with the first two agencies (Dublin Foundation and Cedefop), the establishment plans of all agencies as adopted by the budgetary authority should be annexed to the general budget.*

Amendment 47  
Article 43

Within five years of the Agency taking up its duties, the Commission shall carry out an evaluation of implementation of this Regulation, the results obtained by the Agency and its working methods. This evaluation shall take account of the views of the representatives of the profession, of the social partners and of ***customers'*** organisations. The findings of the evaluation shall be made public. The

Within five years of the Agency taking up its duties, the Commission shall carry out an evaluation of implementation of this Regulation, the results obtained by the Agency and its working methods. This evaluation shall take account of the views of the representatives of the profession, of the social partners and of ***users'*** organisations. The findings of the evaluation shall be made public. The

Commission shall propose, if necessary, an amendment to this Regulation.

Commission shall propose, if necessary, an amendment to this Regulation.

*Justification*

*Semantic correction seeking to retain coherence in the regulation as a whole, since Article 5 refers to users rather than customers. In addition, the notion of users is broader than that of customers.*

Amendment 48  
Article 43a (new)

***Article 43a (new)***

***In deviation to the provisions of article 44 the present regulation shall only enter into force once a definitive seat for the agency has been established.***

***In the event of such a decision not being taken one year after the completion of the legislative procedure establishing the Agency, Brussels will become provisional seat and the Agency shall begin its activities there.***

## EXPLANATORY STATEMENT

A series of texts were adopted in 2001 seeking to create a European railway area without borders (Directives 2001/12, 13, 14 and 16 EC).

In the light of the continual deterioration of the share of rail within the European transport market, and with the prospect of enlargement looming on the horizon, the Commission proposes to speed up the opening of the Member States' rail networks, to consolidate and harmonise their legal framework, through a new package of 5 texts submitted for our consideration, including the one proposing the creation of a European Rail Agency.

### THE COMMISSION PROPOSALS

#### **A. An Agency to speed up interoperability and harmonise rail safety in Europe**

The creation of a European rail area without borders appears to be a vital priority if we are to face the prospect of an exponential growth in road traffic and limit its deleterious effects on the quality of life and safety in Europe.

To that end, it is essential to speed up the massive work of creating technical interoperability of railway networks and their components, which was embarked upon in 1996 for high-speed railways and 2001 for conventional rail.

This work, carried out by AEIF<sup>1</sup>, a tripartite association representing the rail industries, infrastructure managers and railway companies, requires a more proactive and binding working framework to achieve more rapid implementation.

Secondly, the European integration of railways makes it absolutely necessary to maintain the particularly high safety standards achieved by European railways (100 deaths per year as against 41 000 on the roads).

To that end, harmonised legislation on the basis of best practice, and ongoing close consultation between all the rail safety authorities in the Member States is essential at European level.

In accordance with the recommendations of the White Paper on European Governance, such technical tasks cannot be carried out directly by the Commission, which has in any case made it a rule not to contract out these tasks to external consultants.

Consequently we can only subscribe to the creation of an ad hoc structure, under the executive control of the Commission, as we have done in many other areas (medicines, food safety, air safety, sea safety, etc.).

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<sup>1</sup> European Association for Railway Interoperability, appointed by the Commission under Article 2 h and Article 21 of Directives 96/48 and 2001/16.



## **B. A basically technical agency, with no regulatory powers**

The rail agency proposed by the Commission has no legislative competence and has no regulatory power or autonomous control. It remains a tool in the service of the Commission. It is an essentially technical tool, with the double objective of:

- ensuring ongoing consultation and coordination between professionals in the rail sector in the Member States, and in third countries, particularly with a view to enlargement, in the fields of interoperability and safety;
- producing, upstream of the regulatory process, recommendations and opinions for transposition into Community law.

The agency, once established, will have a dual task (Article 1):

- of technical preparations for the implementation of Community legislation on the interoperability of rail systems (draft directive amending Directives 96/48 and 2001/16/EC on high-speed and conventional interoperability respectively).
- of developing a common approach to the safety of rail systems on the basis of the draft directive on the safety of the Community's railways.

## **C. Tasks of the Agency: to consult, to propose, to observe**

The draft Regulation establishing the rail agency lays down precisely its tasks and working methods.

In the fields of safety and interoperability, the Agency's competences regarding recommendations and opinions are clearly mapped out:

- to that end, it is to appoint ad hoc committees of experts and carry out the technical studies needed for the performance of its missions.
- It is also required to consult:
  - the social partners (Article 4) on:
    - joint safety objectives and methods;
    - the definition of technical interoperability techniques (TSIs), in accordance with the existing directives
    - professional qualifications, the approval of training institutes, diplomas and exchanges of drivers and trainers;
  - users (Article 5) on:
    - definition of joint safety objectives and methods,

- technical interoperability specifications, in accordance with the texts in force.
- The Agency is also a special safety observatory:
  - it carries out monitoring of safety on the basis of common indicators and submits every two years a public report on the safety performance of European railways (Article 9).
  - it keeps a public register of licences, safety certificates, accident inquiry reports and national provisions on safety (Article 11).
  - it participates, on a mandate from the Commission, on promotion tasks in the area of rail safety (Article 20).

Finally, it is a resource and information centre on rail safety.

#### **D. Restricted but independent means**

The Rail Agency is a technical tool in the hands of the Commission. It has legal personality, decision-making bodies, staff and a budget.

- \* Its administrative board is composed of six representatives of the Council, six representatives of the Commission and three qualified persons appointed by the Commission and not having the right to vote.
- \* Its Executive Director, who is appointed by the administrative board on a proposal from the Commission, to a five-year term renewable once only.
- \* Its staff consists of temporary servants recruited for a maximum of five years.
- \* Its budget is consists principally of a Community contribution rising in stages to EUR 14.5m, or 0.6% of the budget allocated by the Union to the rail sector.
- \* Its activities are supervised by Parliament and the Council on the basis of an annual report by the Executive Director. They are subject to Regulation No 1049/2001 on public access to agency documents and to Regulation No 1073/1999, placing it under OLAF supervision
- \* The Commission will, in the five year following its establishment, draw up an assessment of the Agency's work.

## **Your rapporteur's opinion and proposals**

Your rapporteur agrees that a European Railway Agency should be established, and welcomes its essential duties of coordinated technical preparation of the regulatory apparatus applicable to railway safety and interoperability.

He wishes also to make the following comments:

### **1. Avoiding dilution of duties and legal responsibility in relation to safety**

Your rapporteur points out that the present level of safety in rail transport in Europe is, as generally recognised, entirely remarkable and that the requirements and constraints on the opening up of networks consequently must ensure compatibility with the safety standards and requirements currently achieved.

To that end, legislation must absolutely:

- \* Ensure that existing safety standards are not levelled down, but that existing best practices are consolidated and made generally applicable;
- \* Avoid any excessive segmentation of the current safety tasks, since integration of these tasks has clearly proved its worth and is a guarantee of reliability. Similarly, priority should be given to the separation of railway operations rather than to the simple de-integration of safety checks and implementation.
- \* Giving judicial or even financial responsibility, by means, for example, of a sanctions mechanism equivalent to that drawn up for the maritime sector (ERIKA I), to the certification and monitoring bodies.

In a general sense, any segmentation of safety responsibilities and, in a wider context, of historic railways, must not be allowed to compromise the determination of legal responsibility in the event of an accident.

### **2. Avoid multiple regulatory structures**

All duplication should be avoided, in particular by ensuring clearer compatibility between the purpose as a resources, observation and statistical monitoring centre conferred on the Railway Agency and the control tasks conferred on the Commission under Article 10b of Directive 2001/12, *inter alia*. To that end, the Agency's observation and statistical monitoring tasks could be broadened beyond the fields of security and interoperability, to cover all statistical data on railways.

**3. Guarantee continuity of technical working parties on interoperability**, by placing the AEIF under the responsibility of the Agency, without allowing the latter to substitute itself for the joint representative organisation.

### **4. Make the agency the real crucible of a European railway culture**

Europe's railways are organised on what is still an approach characterised too much by national thinking and amounts to a serious obstacle to the rapid opening up of the networks.

Looking beyond the technical functions of interoperability and safety, the EU would be well served by having the Agency constitute a privileged area for the emergence of a joint and shared European railway culture. In that connection, it would have to streamline consultation and the exchange of good practice between all performers in the railway world for the purpose of achieving a European rail network able to guarantee the highest levels of safety and reliability. It is on account of that concern that your rapporteur also proposes:

**4a. Strengthening and institutionalising consultation with and between competent national authorities**, by setting up within the Agency:

- a consultative committee of national safety authorities, and
- a permanent consultative committee of national railway accident inquiry bodies.

**4b. Involving, as soon as the Agency has been established, representatives of the enlargement countries**

**4.c Restoring balance of responsibilities within the administrative board**

Where an Executive Agency is concerned, it is standard practice for the European Parliament to retain its monitoring independence in relation to it, and not to sit on the administrative board. Nor would not be appropriate for the Member States, represented as they are on the Article 21 committee, which delivers a definitive opinion in the area of interoperability and safety, to be represented within the Agency as co-legislator (which would in any event presuppose that each of the 15 Member States would be represented).

Your rapporteur considers that it is the Council, as the executive body, that should be represented within the Agency, whence the need to maintain strict equality between the number of representatives of the Commission and of the Council.

Nor does it seem fair that the Commission alone should be responsible for appointing the three qualified persons to the administrative board. Your rapporteur proposes that those qualified persons should be required to be representative of the diversity of the railway sector, and that there should be four of them:

- one qualified person representing the railway companies;
- one qualified person representing infrastructure managers;
- one qualified person representing the railway industries;
- and one qualified person representing the staff of the railway companies (staff being an integral part of the operational implementation of safety and interoperability).

**5. Strengthening Parliament's monitoring powers**, by way of a hearing with the Executive Director of the Agency prior to his or her appointment, by the Committee on Regional Policy, Transport and Tourism, and by laying down the option of applications by Parliament to the Agency for hearings and advice, opinions, expert support or studies in the course of Parliament's proceedings.

22 May 2002

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a European Parliament and Council regulation on establishing a European Railway Agency  
(COM(2002) 23 – C5-0046/2002 – 2002/0024(COD))

Draftsman: Wilfried Kuckelkorn

### **PROCEDURE**

The Committee on Budgets appointed Wilfried Kuckelkorn draftsman at its meeting of 19 March 2002.

It considered the draft opinion at its meeting of 21 May 2002.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Terence Wynn chairman; Francesco Turchi vice-chairman; Wilfried Kuckelkorn draftsman; Kathalijne Maria Buitenweg, Joan Colom i Naval, Den Dover, Bárbara Dührkop Dührkop, Catherine Guy-Quint, Jutta D. Haug, María Esther Herranz García, Ian Stewart Hudghton, Eva Klamt, John Joseph McCartin, Juan Andrés Naranjo Escobar, Joaquim Píscarreta, Per Stenmarck, Kyösti Tapio Virrankoski and Ralf Walter.

## SHORT JUSTIFICATION

### *Contents of the Proposal*

Recent directives laying the foundation for establishing a common framework to access railway infrastructure for licensing and safety certification and for progressively setting standards on the interoperability of railway systems within the new open framework of international freight services, lead the Commission to set up a specific structure in the form of an Agency, in line with the new orientation given by the White Paper on Governance<sup>1</sup>.

According to it, the Commission "must concentrate on the tasks conferred on it by the Treaties and avoid having to assign resources to over-technical tasks". The same approach was also advocated in a study conducted by DG TREN on the externalisation of certain tasks which focus in particular on the drafting of technical standards in the railway sector.

According to the Commission, the justifications for Community intervention based on this structure are the following:

- the need to take action at Community level on railway safety;
- to ensure high safety standards as the market is opened up to more and more operators and then to allow efficient use of this access to infrastructure, without which incompatible national safety regulations would create new barriers to entry;
- the need to speed up the progress on interoperability and to provide stable, sufficient means for doing so;
- the principle of direct participation by the industry and operators in the process of drafting the technical specifications for interoperability;
- there is every justification to deal with interoperability and railway safety together since the two are inextricably linked. The measures proposed concern all European citizens since they will contribute to sustainable mobility policy;
- greater standardisation of equipment, based on the specifications developed by the Agency, will make the European industry more competitive on the world market, (European manufacturers account for 60% of world production and employ around 130 000 workers in Europe);
- the Agency will provide a means of ensuring that the public budgets allocated to the railways (over € 35 billion a year) and € 2 600 million a year for Community funding, are invested in projects compatible with the objectives of the common transport policy, particularly on safety and interoperability;

### *Legal and budgetary aspects*

#### *Legal basis*

The Agency will be established under article 71(1) of the Treaty which implies co-decision.

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<sup>1</sup> COM(2001)428

### *Management bodies*

The Commission considers that the Executive Director must be left with a high degree of independence and flexibility on organisation of the internal functioning of the Agency. The Executive Director will also be responsible for preparation and implementation of the budget and the work programme of the Agency and for personnel matters. He will be appointed by the administrative board on a proposal from the Commission.

An administrative board will be established to supervise the Agency. It will be made up of six representatives appointed by the Commission, six representatives appointed by the Council and three recognised experts in the sector, who will not be entitled to vote. The administrative board will adopt the Agency's work programme, its general report and, at the beginning of the financial year, the Agency's budget, which it will adjust to the contributions and fees received.

### *Staff*

The number of staff required is estimated at around 100 persons.

The personnel of the Agency will be subject to the Staff Regulations. The plan is that only a small number of staff will be seconded from the Community institutions. The other personnel will be recruited on the basis of experience and merit. Without prejudice to the need to have stable, qualified staff in sufficient number, the personnel will be employed on temporary contracts with a maximum duration of five years so as to ensure continuous renewal with staff who are abreast of technological developments and maintain the experience built up.

Area of Activity	TOTAL	A	B	C
General Administration	15	5	6	4
Safety Unit	35	27	2	6
Interoperability unit	48	32	8	8
TOTAL	98	64	16	18

### *Budget*

For the first year this annual budget can be estimated at approximately € 5 million, increasing to around € 14.5 million when the Agency is fully operational.

This Agency should be in operation in 2004, after a year of installation and phasing in 2004.

This amount will be financed under heading 3 of the FP (new budget line B2-703 policy area, title 06 Energy and Transport) from 2004 onwards.

(€ million to three decimal places)

	2004	2005	2006	subs. years
Commitments	4.9	13	14.5	14.5
Payments	4.9	13	14.5	14.5

### *Location*

According to the proposal, the Agency will need to be sited at a convenient location where it will be able to build up working relations with the appropriate Community institutions and where it will be easy to organise meetings of experts from the Member States. The Commission will propose one or more potential locations to the competent authorities who will have to decide the location not later than six months after adoption of the Regulation.

### **Comments**

Over the past years, the Parliament had stated principles of budgetary transparency and accountability which the rapporteur finds useful to recall and integrate in the current legislative proposal when necessary:

- The management board should be chaired by the Commission;
- The financial control of the Agency should be implemented by the financial controller of the Commission which is consistent with the current proposal;
- The discharge procedure ruled by article 276 of the Treaty applies to the Agencies: the Parliament gives discharge to the director on the recommendation of the management Board in the case of EU supported agencies. The management Board gives discharge to the director on recommendation of EP in the case of self-financing or partially self-financing agencies;
- The fees paid to the Agency should be budgetised in the revenue part of the budget as pre-allocated revenue, in order to improve transparency;
- The establishment plans of the Agencies are published in annex of the budget after its adoption by the budgetary authority;
- The list of all Agencies is put in annex of the Financial Regulation in accordance with the principle of unity of the budget.

## **AMENDMENT TO THE LEGISLATIVE RESOLUTION**

*[The European Parliament],*

***Considers that this is a new action whose financing is compatible with the ceilings of heading 3 of the current financial perspective and with no reduction of other policies.***

*Justification:*

*The creation of this Agency entails additional expenditure under the ceiling of heading 3 of the FP. According to the common declaration of 20 July 2000, the budgetary authority is entitled to evaluate the compatibility of the new proposals.*

## **AMENDMENTS**



The Committee on Budgets calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 40  
Recital 15

The vocational qualifications required for train drivers are a major factor in both safety and interoperability in Europe. They are also a precondition for the free movement of workers in the railway industry. This question must be tackled with respect for the existing framework for social dialogue. The **Agency must provide the** technical support necessary in order to take account of this aspect at European level.

The vocational qualifications required for train drivers are a major factor in both safety and interoperability in Europe. They are also a precondition for the free movement of workers in the railway industry. This question must be tackled with respect for the existing framework for social dialogue. The **European Union** delegates, under its responsibility, the technical support necessary **to the Agency** in order to take account of this aspect at European level.

*Justification*

*The agencies are Community bodies created by Community regulation to implement Community tasks. The Commission delegates to decentralised agencies specific and technical tasks under the provisions laid down by the Treaty and must ensure political and budgetary control over these bodies.*

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<sup>1</sup> OJ C .....

Amendment 41  
Recital 16

Registration is first and foremost an act of recognition of the capability of rolling stock to operate under specified conditions. The registration of equipment must be transparent and non-discriminatory and falls within the competence of the public authorities. The **Agency must provide** technical support in order to establish a system for registration of rolling stock.

Registration is first and foremost an act of recognition of the capability of rolling stock to operate under specified conditions. The registration of equipment must be transparent and non-discriminatory and falls within the competence of the public authorities. The **European Union delegates, under its responsibility, the technical support to the Agency** in order to establish a system for registration of rolling stock

*Justification*

*Same as amendment 1.*

Amendment 42  
Recital 17

In order to ensure the greatest possible transparency and equal access for all parties to relevant information, the documents envisaged for the interoperability process must be accessible to the public. The same applies to licences and safety certificates. The **Agency must provide** an efficient means of exchanging this information.

In order to ensure the greatest possible transparency and equal access for all parties to relevant information, the documents envisaged for the interoperability process must be accessible to the public. The same applies to licences and safety certificates. The **European Union delegates, under its responsibility, an efficient means of exchanging this information to the Agency.**

*Justification*

*Same as amendment 1.*

Amendment 43  
Recital 18

Promotion of innovation in the field of railway safety and interoperability, particularly use of new technologies, is an important task which the *Agency* must encourage.

Promotion of innovation in the field of railway safety and interoperability, particularly use of new technologies, is an important task which the *European Union* must encourage and delegate, under its responsibility, *to the Agency*.

*Justification*

*Same as amendment 1.*

Amendment 44  
Recital 19

In order to perform its tasks properly, the Agency must have legal personality and an autonomous budget funded mainly through a contribution by the Community. In order to ensure the *Agency's independence in its* daily management and in the opinions and recommendations which it issues, the Executive Director should *have* full responsibility *and* the Agency's *personnel should be independent*.

In order to perform its tasks properly, the Agency must have legal personality and an autonomous budget funded mainly through a contribution by the Community. In order to ensure the *control over the Agency's* daily management and in the opinions and recommendations which it issues, the Executive Director should *be delegated* full responsibility *on* the Agency's *establishment plan once agreed by the budgetary authority*.

*Justification*

*Decentralised agencies have increased their staff by 366% between 1995 and 2001 with a significant budgetary impact in particular on pensions. The Parliament should therefore maintain its control on the organigrammes as requested in EP's opinion on the recasting of the Financial Regulation.*

Amendment 45  
Recital 21

The Agency's work must be transparent and its management must be subject to all the existing provisions concerning sound management and combating fraud. The effective control of the European Parliament must be ensured and, to this end, the European Parliament must have ***the possibility of*** a hearing with the Executive Director of the Agency.

The Agency's work must be transparent and its management must be subject to all the existing provisions concerning sound management, ***budgetary procedures*** and combating fraud. The effective control of the European Parliament must be ensured and, to this end, the European Parliament must have a hearing with the Executive Director of the Agency.

*Justification*

*Same as amendment 1.*

Amendment 46  
Recital 21 a (new)

***whereas over the past years, as more decentralised agencies were created, the budgetary authority has looked to improve transparency and control over the management of Community funding allocated to them, in particular concerning budgetisation of the fees, financial control, power of discharge, contribution to the pension scheme and internal budgetary procedure (code of conduct);***

*Justification*

*Given that decentralised Agencies are implementing EU policies, employ an increasing number of staff and are fully or partially dependent on a Community subsidy, the general budgetary procedures should apply to them.*

Amendment 47  
Article 1, point 1

This Regulation establishes a European Railway Agency, hereinafter referred to as "the Agency".

This Regulation establishes a European Railway Agency, hereinafter referred to as the Agency ***placed under the direct responsibility of the European Union.***

*Justification*

*Same as amendment 1.*

Amendment 48  
Article 22, paragraph 2

The location of the Agency shall be decided by the competent authorities, at the latest six months after the adoption of this Regulation, on a proposal from the Commission.

The location of the Agency shall be decided by the competent authorities, at the latest six months after the adoption of this Regulation, on a proposal from the Commission ***and after consultation of the Parliament. The proposal should include, if possible, the need for a financial contribution from the host Member State.***

*Justification*

*Agencies seats have become a contentious issue between the institutions and among the Member States. EP has pointed out the cost of delaying the decisions as the agencies have to start on a temporary basis before being transferred to the final location. In some cases, Member States have contributed to the setting up of the Agency by providing land or a building. Such a contribution not only involves the Member States concerned but also represents savings for the EU budget.*

Amendment 49  
Article 24, 3a (new)

***The establishment plan of the Agency is published in the Budget after its final adoption by the Budgetary authority.***

*Justification*

*For reasons of budgetary transparency and harmonisation with the first two agencies (Dublin Foundation and Cedefop), the establishment plans of all agencies as adopted by the budgetary authority should be annexed to the general budget.*

Amendment 50  
Article 28, paragraph 1

The Agency shall have an administrative board.

The Agency shall have an administrative board ***chaired by the Commission.***

*Justification*

*Same as amendment 1.*

Amendment 51  
Article 38, point 1

The revenue of the Agency shall consist of:  
- a contribution from the Community;  
- any contribution from third countries participating in the work of the Agency, as provided for by Article 36;  
- charges for publications, training and any other services provided by the Agency.

The revenue of the Agency shall consist of:  
-a contribution from the Community;  
- any contribution from third countries participating in the work of the Agency, as provided for by Article 36;  
- charges for publications, training and any other services provided by the Agency.

***The Agencies' contribution to the pensions are entered directly in the revenue part of the Commission budget.***

*Justification*

*Since the common statement of 17 November 1995 by the Parliament and the Council, the Agencies have been required to set up transparent internal procedures in parallel to the general budgetary procedure in order to monitor the Community subsidy and the evolution of*

*the organigrammes. For reasons of budgetary transparency and harmonisation with the first two agencies (Dublin Foundation and Cedefop), the establishment plans of all agencies as adopted by the budgetary authority should be annexed to the general budget.*

Amendment 52  
Article 38, point 5

The administrative board shall adopt, by 31 March at the latest, the draft **budget** for the following financial year and submit it to the Commission, which, on this basis, shall enter the corresponding estimates in the preliminary draft general budget of the European Communities, which it shall submit to the Council in accordance with Article 272 of the Treaty.

The administrative board shall adopt, by 31 March at the latest, the draft **estimates including the provisional establishment plan accompanied by the preliminary work programme** for the following financial year and submit it to the Commission, which, on this basis, shall enter the corresponding estimates in the preliminary draft general budget of the European Communities, which it shall submit to the Council in accordance with Article 272 of the Treaty.

*Justification*

*Same as amendment 12.*

Amendment 53  
Article 38, point 6

**The** administrative board shall adopt, **by 15 January at the latest**, the Agency's budget, adjusting **it**, where necessary, to the Community contribution **decided by the budgetary authority**.

**After the adoption of the general Budget by the budgetary authority, the** administrative board shall adopt the Agency's **final budget and work programme**, adjusting **them**, where necessary, to the Community contribution. **It forwards them without delay to the Commission and to the budgetary authority.**

*Justification*

*Since the common statement of 17 November 1995 by the Parliament and the Council, the Agencies have been required to set up transparent internal procedures in parallel to the general budgetary procedure in order to monitor the Community subsidy and the evolution of the organigrammes.*

Amendment 54  
Article 38, point 6 a (new)

***Any modification to the budget, including establishment plan, shall follow the procedure of paragraph 5.***

*Justification*

*Same as amendment 15.*

Amendment 55  
Article 38, point 6 b (new)

***The establishment plan of the Agency is authorised by the Budget of the Union.***

*Justification*

*Same as amendment 10.*