



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Budgetary Control

2013/0014(COD)

7.11.2013

OPINION

of the Committee on Budgetary Control

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council
on the European Union Agency for Railways and repealing Regulation (EC)
No 881/2004
(COM(2013)0027 – C7-0029/2013 – 2013/0014(COD))

Rapporteur: Bogusław Liberadzki

PA_Legam

SHORT JUSTIFICATION

The progressive establishment of a European railway area without frontiers requires Union action in the field of the technical regulations applicable to railways with regard to the technical aspects (interoperability) and the safety aspects, the two being inextricably linked and both requiring higher level of harmonisation at the Union level and the need for a European authority to ease this process.

Nowadays the National Safety Authorities (NSA) are in charge of the procedures for placing in service any part of the railway system such as vehicles, infrastructure and energy components or signalling systems. For cross-border operations, a vehicle needs to be authorised in each Member State it is intended to be operated in. NSAs are also in charge of issuing to railway undertakings the safety certificate's part A valid throughout the Union and part B valid for one specific Member state. The applicant has to prove that he is using an appropriate safety management system (SMS). The certificate confirms that a RU is capable to operate safely on a dedicated network. The various authorisation and certification procedures in the Member States are long-lasting and hamper the free and competitive movement of passengers and goods across the Union.

The European Railway Agency acting in future as the single railway authority and one-stop-shop in the European Union for issuing vehicle authorisation, safety certifications / authorisations and the placing in service of trackside ERTMS will be the most promising way to achieve the key objectives of the European transport policy. Other tasks shall also be conducted by a European railway authority, such as the classification of national rules and systematic supervision on existing or draft new national rules, the establishment and maintenance of European registers or standardisation recommendations. With the European Railway Agency acting as the single railway authority, an independent appeal body following fair and transparent processes needs to be furthermore established. In order to make the improvement of the system really efficient, the Agency's competences shall be increased rapidly with a sound and reasonable transition period.

AMENDMENTS

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

Amendment 1

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) In pursuing its objectives, the Agency should take full account of the process of enlargement of the Union and of the specific constraints relating to rail links with third countries. ***The Agency should have sole responsibility for the functions and powers assigned to it.***

Amendment

(6) In pursuing its objectives, the Agency should take full account of the process of enlargement of the Union and of the specific constraints relating to rail links with third countries.

Amendment 2

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6 a) The Agency should have sole responsibility for the functions and powers assigned to it.

Amendment 3

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) The Agency, while performing its tasks, and particularly in relation to drafting recommendations, should take upmost account of external railway expertise. This expertise should predominantly consist of professionals from the railway sector and the relevant national authorities. They should form competent and representative working parties of the Agency.

(7) The Agency, while performing its tasks, and particularly in relation to drafting recommendations, should take upmost account of external railway expertise. This expertise should predominantly consist of professionals from the railway sector and the relevant national authorities. They should form competent and representative working parties of the Agency. ***The Agency should bear in mind the need to maintain balance between the risks and the benefits, in particular as regards the management of conflicts of interest, on the one hand, and the objective of obtaining the best possible***

expertise, on the other.

Amendment 4

Proposal for a regulation

Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) In order to ensure efficient use of the Union funding and effective operation of the Agency, it should be based at a single location which enables minimising the travel time and travel costs for staff from the NSA's and stakeholders from the railway sector, as well as facilitates attraction of qualified staff.

Amendment 5

Proposal for a regulation

Article 2 – title

Text proposed by the Commission

Amendment

Legal status

Legal status ***and location***

Amendment 6

Proposal for a regulation

Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Agency shall be based at a central location enabling to keep the travel time and travel costs for staff from the NSAs and stakeholders from the railway sector as low as possible. The Agency shall be based at a location which attracts qualified staff.

Amendment 7

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. The Agency shall issue opinions at request of the national regulatory bodies referred to in Article 55 of Directive 2012/34/EU [Directive establishing a Single European Rail Area (recast)] concerning safety-related and interoperability-related aspects of matters drawn to their attention.

Amendment

1. The Agency shall issue opinions at request ***either*** of the national regulatory bodies referred to in Article 55 of Directive 2012/34/EU [Directive establishing a Single European Rail Area (recast)], ***or of a member of the network of representative bodies from the railway sector referred to in Article 34(2) of this Regulation,*** concerning safety-related and interoperability-related aspects of matters drawn to their attention.

Amendment 8

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

The Agency shall issue single safety certificates in accordance with Articles 10 and 11 of Directive ... [the Safety Directive].

Amendment

The Agency shall issue, ***renew, suspend, amend or revoke*** single safety certificates in accordance with Articles 10 and 11 of Directive ... [the Safety Directive].

Amendment 9

Proposal for a regulation Article 15 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) issue recommendations to the Commission on European standards to be developed by the relevant European Standardisation Bodies.

Amendment 10

Proposal for a regulation

Article 15 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(g b) issue detailed requests for standards to the relevant European Standardisation Bodies (ESB), in order to implement the mandate given by the Commission to them, related to rail.

Amendment 11

Proposal for a regulation

Article 18 – title

Text proposed by the Commission

Amendment

Authorisations for placing in service of trackside ***control-command and signalling sub-systems***

Authorisations for placing in service of trackside ***ERTMS***

Amendment 12

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

The Agency shall issue authorisations for placing in service of the trackside ***control-command and signalling subsystems*** located or operated in the entire Union in accordance with Article 18 of Directive ... [the Interoperability Directive].

The Agency shall issue authorisations for placing in service of the trackside ***ERTMS*** located or operated in the entire Union in accordance with Article 18 of Directive ... [the Interoperability Directive].

Amendment 13

Proposal for a regulation

Article 21 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. In the case of the urgent preventive measures referred to in Article 8 of the Safety Directive and Article 14(4) of the Interoperability Directive, concerning several Member States, in particular after an accident or an incident, the Agency shall lead the harmonisation of the rule at Union level, in relation with the NSAs. If necessary, the Agency shall issue a recommendation or an opinion to the Commission.

Amendment 14

Proposal for a regulation

Article 33 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The Agency shall **set up and keep** European registers provided for in **Article** 43, 44 and 45 of Directive ... [Interoperability Directive]. The Agency shall act as the system authority for all registers and databases referred to in the Safety, Interoperability and Train Drivers Directives. This shall include, in particular:

1. The Agency shall **define** European registers provided for in **Articles** 43, 44 and 45 of Directive ... [Interoperability Directive] **in a practical, efficient and user-friendly format to support business and operational needs**. The Agency shall act as the system authority for all registers and databases referred to in the Safety, Interoperability and Train Drivers Directives. This shall include, in particular:

Amendment 15

Proposal for a regulation

Article 33 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) the **vehicle registers**, including via links to relevant national registers;

(g) the **European register of authorised vehicles**, including via links to relevant

national registers;

Amendment 16

Proposal for a regulation

Article 47 – paragraph 1 – point l

Text proposed by the Commission

(l) adopt an anti-fraud strategy, which is proportionate to the fraud risks having regard to cost-benefit of the measures to be implemented;

Amendment

(l) adopt an anti-fraud ***and transparency*** strategy, which is proportionate to the fraud risks having regard to cost-benefit of the measures to be implemented;

Amendment 17

Proposal for a regulation

Article 47 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Management Board shall adopt, in accordance with the procedure provided for in Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director is authorised to sub-delegate these powers.

Amendment

The Management Board shall adopt, in accordance with the procedure provided for in Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director is authorised to sub-delegate these powers. ***This shall not affect his or her liability. The Executive Director shall inform the Management Board of such delegations and sub-delegations.***

Amendment 18

Proposal for a regulation

Article 47 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In application of the previous subparagraph, where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Amendment

In application of the previous subparagraph, where exceptional circumstances so require, the Management Board may, by way of a decision, suspend temporarily the delegation of appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director. ***The delegatee shall inform the Management Board of such a delegation.***

Amendment 19

**Proposal for a regulation
Article 50 – paragraph 1**

Text proposed by the Commission

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. The Executive Director shall be accountable to the Management Board for his/her activities.

Amendment

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. The Executive Director shall be accountable to the Management Board for his/her activities. ***Prior to his appointment, the Executive Director should be invited to make a statement and engage in a debate with Members of the European Parliament.***

Amendment 20

**Proposal for a regulation
Article 51 – paragraph 1**

Text proposed by the Commission

1. The Agency shall establish one or more Boards of Appeal.

Amendment

1. The Agency shall establish one or more ***independent*** Boards of Appeal.

Amendment 21

Proposal for a regulation Article 55 – paragraph 1

Text proposed by the Commission

1. Any natural or legal person may appeal against **a** decision addressed to **that person** by the Agency pursuant to Articles 12, 16, 17 **and** 18.

Amendment

1. Any natural or legal person, **or a member of the network of representative bodies from the railway sector referred to in Article 34(2)**, may appeal against **any** decision addressed to **them** by the Agency pursuant to Articles 12, 16, 17 **or** 18.

Amendment 22

Proposal for a regulation Article 56 – paragraph 1

Text proposed by the Commission

1. When examining the appeal, the Board of Appeal shall **act expeditiously**. It shall, as often as necessary, invite the parties to the appeal proceedings to file, within specified time limits, observations on its notifications or on communications from other parties to the appeal proceedings. Parties to the appeal proceedings shall be entitled to make oral presentations.

Amendment

1. When examining the appeal, the Board of Appeal shall **decide within two months from receipt of all relevant information. The Board of Appeal may request this relevant information within one month.** It shall, as often as necessary, invite the parties to the appeal proceedings to file, within specified time limits, observations on its notifications or on communications from other parties to the appeal proceedings. Parties to the appeal proceedings shall be entitled to make oral presentations.

Amendment 23

Proposal for a regulation Article 59 – paragraph 4

Text proposed by the Commission

4. On **receipt of** the Court of Auditors' observations on the Agency's provisional accounts, under Article 148 of the general Financial Regulation, the Executive

Amendment

4. **Based, where necessary,** on the Court of Auditors' observations on the Agency's provisional accounts, under Article 148 of the general Financial Regulation, the

Director shall draw up the Agency's final accounts under his own responsibility and submit them to the Management Board for *an opinion*.

Executive Director shall draw up the Agency's final accounts under his own responsibility and submit them, *together with a statement of assurance*, to the Management Board for *approval*.

Justification

The drawing-up of the accounts and the procedure via which they are approved by the Management Board should not be made conditional on receipt of the Court of Auditors' observations. The Executive Director must submit the accounts together with a statement of assurance – that he or she has signed – concerning those accounts.

Amendment 24

Proposal for a regulation Article 61 – paragraph 3

Text proposed by the Commission

3. The Agency shall take appropriate administrative measures to organise its services in order to avoid *any conflict* of interest.

Amendment

3. The Agency shall take appropriate administrative measures, *inter alia through training and prevention strategies*, to organise its services in order to avoid *conflicts* of interest, *including relating to post-employment issues (i. e., 'revolving doors', 'insider information', etc.)*.

Amendment 25

Proposal for a regulation Article 63 – paragraph 2

Text proposed by the Commission

The Management Board shall adopt a decision laying down rules on the secondment to the Agency of national experts.

Amendment

The Management Board shall adopt a decision laying down rules on the secondment to the Agency of national experts *and shall adopt and implement a policy to evaluate and manage potential conflicts of interest of seconded national experts including prohibiting them from attending working group meetings when their independence and impartiality could*

be undermined.

Amendment 26

Proposal for a regulation Article 65 – paragraph 2

Text proposed by the Commission

2. The host Member State shall provide the best possible conditions to ensure the proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections.

Amendment

2. The host Member State shall provide the best possible conditions to ensure the proper functioning of the Agency, including multilingual, European-oriented schooling and appropriate transport connections, *taking in consideration the travel time and costs for staff from the NSA's and stakeholders.*

Amendment 27

Proposal for a regulation Article 70 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

In particular, the Agency shall publish on its website a list of the members of its Management Board and of its external and in-house experts, together with their respective declarations of interest and curricula vitae. The minutes of the meetings of the Management Board shall be systematically published.

Amendment 28

Proposal for a regulation Article 72 a (new)

Text proposed by the Commission

Amendment

*Article 72 a
Conflict of interest*

1. The Executive Director, as well as officials seconded by Member States and the Commission on a temporary basis shall make a declaration of commitments and a declaration of interests indicating the absence of any direct or indirect interests, which might be considered prejudicial to their independence. These declarations shall be made in writing on their entry into service and shall be renewed in the event of a change in their personal circumstances. Members of the Administration board, the executive board and the board of appeal shall also make these declarations which shall be public together with their curricula vitae. The agency shall publish on its website a list of its the members of the bodies described in article 42 as well as external and in-house experts.

2. The Administrative Board shall implement a policy to manage and avoid conflicts of interest, which shall at least include:

a) principles for managing and verification of the declarations of interest including rules for making them public taking into consideration Article 77;

b) compulsory training requirements on conflict of interest for the staff of the Agency and seconded national experts;

c) rules on gifts and invitations;

d) detailed rules for incompatibilities for staff and members of the Agency once they have ended their employment relation with the Agency;

e) rules of transparency on Agency's decisions including the minutes of the Boards of the Agency which shall be made public taking into consideration sensitive, classified and commercial information; and

f) sanctions and mechanisms to safeguard the autonomy and independency of the

Agency.

The Agency shall bear in mind the need to maintain balance between the risks and the benefits, in particular as regards the objective of obtaining the best technical advice and expertise, and the management of conflicts of interests. The Executive Director shall include the information related to implementation of that policy when reporting to the European Parliament and the Council in accordance with this Regulation.

Justification

This amendment gives the legal ground for the Agency to implement a complete set of rules for managing and avoiding conflicts of interest. The governing bodies of the Agency shall be responsible of developing and implementing this policy taking into consideration the particularities of the Agency to get the best technical knowledge as well as sensitive, classified and commercial information that might be involved.

Amendment 29

Proposal for a regulation
Article 72 b (new)

Text proposed by the Commission

Amendment

Article 72b

Penalties

The Commission shall adopt, by means of a delegated act, a system of penalties for failure to comply with the deadlines set in all the decisions adopted by the Agency pursuant to this Regulation. It shall also establish a compensation scheme for cases where the Board of Appeal provided for in the Agency Regulation finds in favour of the addressee of an Agency decision. The penalties and the compensation scheme must be effective, proportionate, non-discriminatory and dissuasive.

PROCEDURE

Title	European Union Agency for Railways and repeal of Regulation (EC) No 881/2004						
References	COM(2013)0027 – C7-0029/2013 – 2013/0014(COD)						
Committee responsible Date announced in plenary	TRAN 7.2.2013						
Opinion by Date announced in plenary	CONT 7.2.2013						
Rapporteur Date appointed	Bogusław Liberadzki 10.4.2013						
Date adopted	4.11.2013						
Result of final vote	<table> <tr> <td>+: </td><td>14</td></tr> <tr> <td>–: </td><td>1</td></tr> <tr> <td>0: </td><td>0</td></tr> </table>	+:	14	–:	1	0:	0
+:	14						
–:	1						
0:	0						
Members present for the final vote	Marta Andreasen, Jean-Pierre Audy, Inés Ayala Sender, Martin Ehrenhauser, Gerben-Jan Gerbrandy, Ingeborg Gräßle, Cătălin Sorin Ivan, Bogusław Liberadzki, Jan Mulder, Crescenzo Rivellini, Paul Rübig, Bogusław Sonik, Bart Staes, Michael Theurer						
Substitute(s) present for the final vote	Karin Kadenbach						
Substitute(s) under Rule 187(2) present for the final vote	Andrej Plenković						