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2004



2009

*Committee on Transport and Tourism*

24.6.2007

PE 390.643v01-00

## AMENDMENTS 24-41

### Draft report

(PE 388.560v01-00)

**Paolo Costa**

Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/49/EC on safety on the Community's railways

Proposal for a directive (COM(2006)0784 – C6-0493/2006 – 2006/0272(COD) – amending act)

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Text proposed by the Commission

Amendments by Parliament

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Amendment by Jörg Leichtfried

Amendment 24

ARTICLE 1, POINT -1 (NEW)

Article 1, point (ea) (new) (Directive/2004/49/EC)

***(-1) The following point is added to Article 1:***

***ea) achieving the objectives of Directive 89/391/EEC on improving the safety and health of workers at work and laying down specific provisions in order to minimise the risks of railway operation for staff.***

Or. de

*Justification*

*It should be guaranteed that specific national rules on health and safety at work continue to apply pending the drawing-up of European rules and are not replaced by inadequate TSI rules. Practical experience in ERA working parties shows that national and European provisions on health and safety at work are used as a reference. The specific risks are not adequately taken into account in the European rules.*

Amendment by Inés Ayala Sender

Amendment 25

ARTICLE 1, POINT 1

Article 3, point (s) (Directive/2004/49/EC)

"s) 'keeper' means the person or entity who, being the owner of a vehicle or having the right to dispose of it, exploits the vehicle economically in a permanent manner as a means of transport."

"s) 'keeper' means the person or entity who, being the owner of a vehicle or having the right to dispose of it, exploits the vehicle economically in a permanent manner as a means of transport **and is registered in the national vehicle register referred to in Article [...] of the Interoperability Directive**."

Or. es

Amendment by Michael Cramer

Amendment 26

ARTICLE 1, POINT 1

Article 3, point (s) (Directive/2004/49/EC)

s) 'keeper' means the person **or entity** who, being the owner **of a vehicle** or having the right **to dispose of it**, exploits **the vehicle economically** in a permanent manner as a means of transport.

s) 'keeper' means the person who, being the owner or having the right **to dispose of a wagon**, exploits **it** in a permanent manner as a means of transport. **The keeper shall be registered in the National Vehicle Register as responsible for the maintenance of this wagon.**

Or. en

*Justification*

*The basic responsibility of the wagon keeper needs to be clarified. In addition the fact that the wagon keeper is registered in the national vehicle register as the body responsible for wagon maintenance should be explicitly mentioned.*

Amendment by Paolo Costa

Amendment 27

ARTICLE 1, POINT 2

Article 4, paragraph 4 (Directive/2004/49/EC)

2. In Article 4(4) the term ‘wagon operator’ is replaced by ‘**wagon** keeper’.

2. In Article 4(4) the term ‘wagon operator’ is replaced by ‘**vehicle** keeper’.

Or. en

*Justification*

*Today keepers exploit not only wagons but also locomotives, coaches and multiple units. It is therefore more appropriate to extend the definition and replace the word wagons with vehicles which includes all types of railway operable units.*

Amendment by Michael Cramer

Amendment 28

ARTICLE 1, POINT 5, POINT A)

Article 7, paragraph 3, indent 1 and 2 (Directive/2004/49/EC)

In paragraph (3), the first and second **indents** are replaced by the following

In paragraph (3), the first and second **subparagraphs** shall be replaced by the following:

***"The development of Common Safety Targets must be supported by an appropriate cost-benefit analysis. This analysis shall take due account of the expected effect of Common Safety Targets on the competitiveness of the rail sector, of their added value in improving the level of transport safety, and of the limited resources of the ERA.***

The first set of draft CSTs shall be based on an examination of existing targets and safety

The first set of draft CSTs shall be based on an examination of existing targets and safety

performance in the Member States and shall ensure that the current safety performance of the rail system is not reduced in any Member State. They shall be adopted by the Commission before 30 April 2009 and shall be published in the *Official Journal of the European Union*. ***This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory control procedure referred to in Article 27(2a).***

The second set of draft CSTs shall be based on the experience gained from the first set of CSTs and their implementation. They shall reflect any priority areas where safety needs to be further improved. They shall be adopted by the Commission before 30 April 2011 and shall be published in the Official Journal of the European Union. ***This measure***, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory ***control*** procedure referred to in Article 27(2a)."

performance in the Member States and shall ensure that the current safety performance of the rail system is not reduced in any Member State. They shall be adopted by the Commission before 30 April 2009 and shall be published in the *Official Journal of the European Union*."

The second set of draft CSTs shall be based on the experience gained from the first set of CSTs and their implementation. They shall reflect any priority areas where safety needs to be further improved. They shall be adopted by the Commission before 30 April 2011 and shall be published in the Official Journal of the European Union. ***The measures*** designed to amend non-essential elements of this Directive, by supplementing it, ***relating to the first and second draft CSTs***, shall be adopted in accordance with the regulatory procedure ***with scrutiny*** referred to in Article 27(2a). ***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 27 (2b).*** .

Or. en

#### *Justification*

*It is essential to make clear that the ERA work on Common Safety Targets needs to be properly prioritised and justified, to ensure that its objective - improving rail competitiveness - is achieved. Railway safety levels are directly linked to system investment (for example level crossing removal, train protection systems), and not to targets: investment funding is outside the scope of the Safety Directive.*

Amendment by Paolo Costa

Amendment 29

ARTICLE 1, POINT 5, POINT A) A (NEW)

Article 7, paragraph 3, third subparagraph (a) (new) (Directive/2004/49/EC)

***(aa) In paragraph (3), after the third subparagraph, the following subparagraph shall be inserted:***

***Before drafting or revising CSTs, a cost-benefit analysis must demonstrate that the expected effect of the development of CSTs shall improve the level of transport safety and the optimum use of the railway system;***

Or. en

*Justification*

*Safety should not be used as an excuse for the establishment of national safety rules hindering the approval and the placing in service of rolling stock. The development of Common Safety Targets should therefore be considered under the terms of cost-effectiveness analysis demonstrating the improvement of the level of transport safety as well as the optimum use of railway system, e.g. the interoperability of rolling stock. This will improve the regulatory environment by avoiding technical and operational barriers.*

Amendment by Jörg Leichtfried

Amendment 30

ARTICLE 1, POINT 7

Article 14 (1) (Directive/2004/49/EC)

1. Rolling stock that has been authorised to enter into service in one Member State ***under Article 10*** shall be the subject of authorisation to enter into service in any other Member State pursuant to this Article, ***if such authorisation is required by the Member State(s) concerned.***

However, in the case of rolling stock bearing an EC declaration of verification, Article 14(8) of Directive .../.../EC (\*) [*Directive on the interoperability of the rail system*] shall apply.

1. Rolling stock that has been authorised to enter into service in one Member State shall be the subject of authorisation to enter into service in any other Member State pursuant to this Article.

However, in the case of rolling stock bearing an EC declaration of verification, Article 14(8) of Directive .../.../EC (\*) [*Directive on the interoperability of the rail system*] shall apply.

Or. de

### *Justification*

*It is important to maintain the division between the safety certificate for railway undertakings and authorisation for rolling stock as two separate procedures. Article 14(1) of the Safety Directive and the amendment to Article 14(7), second indent of the Interoperability Directive establish an inadmissible link between the two procedures. The reference to Article 10 of the Safety Directive is incorrect, since this article governs the receipt of the safety certificate and not authorisation to enter into service.*

Amendment by Jörg Leichtfried

Amendment 31

ARTICLE 1, POINT 7

Article 14 (3) (Directive/2004/49/EC)

3. The information referred to in paragraph 2(a) and (b) cannot be called into question by the safety authority, save where the latter is able to demonstrate the existence of a safety risk. After the adoption of the reference document referred to in Article 14a, the safety authority may not invoke in this regard any Group A rule listed in this document.

3. The information referred to in paragraph 2(a) and (b) cannot be called into question by the safety authority, save where the latter is able to demonstrate the existence of a safety risk ***and/or it concerns worker protection issues for which a higher level of protection is prescribed under national rules. This applies to all rules on the health and safety of workers that are notified after the Safety Directive enters into force.*** After the adoption of the reference document referred to in Article 14a, the safety authority may not invoke in this regard any Group A rule listed in this document.

Or. de

### *Justification*

*The degree of health and safety protection achieved at national level must not be circumvented. The special characteristics of railway operation and its risks for staff have been taken into consideration by specific rules at national level. It must be possible to continue to take account of these special provisions in the context of subsidiarity and the recognition of non-discriminatory, stricter national safety rules.*

Amendment by Jörg Leichtfried

Amendment 32

ARTICLE 1, POINT 7

Article 14 (4) (Directive/2004/49/EC)

4. The safety authority may ask for additional information to be supplied, for risk analyses to be carried out or for tests to be conducted on the network in order to verify that the information referred to in paragraph 2(c) and (d) complies with the national rules in force as notified to the Commission pursuant to Article 8 of the present Directive or to Article 16 of Directive .../..EC [*Directive on the interoperability of the rail system*]. However, after the adoption of the reference document referred to in Article 14a of the present Directive, it will only be possible to carry out such verification on the basis of the national rules relating to Group B or C or featuring in this document.

The safety authority shall define, ***in agreement with the applicant***, the scope and content of the additional information, the risk analyses or the tests requested. As far as the tests are concerned, the safety authority shall make representations to the infrastructure manager to ensure that they can take place within three months of the request.

4. The safety authority may ask for additional information to be supplied, for risk analyses to be carried out or for tests to be conducted on the network in order to verify that the information referred to in paragraph 2(c) and (d) complies with the national rules in force as notified to the Commission pursuant to Article 8 of the present Directive or to Article 16 of Directive .../..EC [*Directive on the interoperability of the rail system*]. However, after the adoption of the reference document referred to in Article 14a of the present Directive, it will only be possible to carry out such verification on the basis of the national rules relating to Group B or C or featuring in this document.

The safety authority shall define the scope and content of the additional information, the risk analyses or the tests requested. As far as the tests are concerned, the safety authority shall make representations to the infrastructure manager to ensure that they can take place within three months of the request.

Or. de

*Justification*

*The safety authority defines the scope and content of the necessary assessment procedure on the basis of the facts, independently of the applicant. Consequently it is not clear why the safety authority should do so in agreement with the applicant. Defining the additional information, risk analyses and tests 'in agreement' with the applicant is counterproductive and detrimental to a high level of safety. 'In agreement with the applicant' should be deleted.*

Amendment by Jörg Leichtfried

Amendment 33

ARTICLE 1, POINT 7

Article 14, paragraph 5 (Directive/2004/49/EC)

5. All applications for an entry-into-service authorisation submitted in accordance with this Article shall be the subject of a decision by the safety authority, to be taken as soon as possible and not later than:

- a) four months after submission of the technical dossier referred to in paragraph 2;
- b) where applicable, two months after provision of the additional information or risk analyses requested by the safety authority pursuant to paragraph 4;
- c) where applicable, two months after provision of the results of the tests requested by the safety authority pursuant to paragraph 4;

***In the absence of a decision within the prescribed time limits, the rolling stock in question shall be deemed to have been authorised.***

The entry-into-service authorisation may stipulate conditions of use and other restrictions.

5. All applications for an entry-into-service authorisation submitted in accordance with this Article shall be the subject of a decision by the safety authority, to be taken as soon as possible and not later than:

- a) four months after submission of the technical dossier referred to in paragraph 2;
- b) where applicable, two months after provision of the additional information or risk analyses requested by the safety authority pursuant to paragraph 4;
- c) where applicable, two months after provision of the results of the tests requested by the safety authority pursuant to paragraph 4;

***Deleted***

The entry-into-service authorisation may stipulate conditions of use and other restrictions.

Or. de

*Justification*

*Constructive approval for rolling stock cannot be accepted. The associated safety risks outweigh the applicant's interest in a speedy decision. As an alternative, a complaints procedure might be introduced.*

Amendment by Jörg Leichtfried

Amendment 34

ARTICLE 1, POINT 7

Article 14, paragraph 6 (Directive/2004/49/EC)

6. Any negative decision taken by the competent safety authority shall be duly

6. Any negative decision taken by the competent safety authority shall be duly



substantiated, and the applicant may, within a period of one month from notification, request that the decision be reviewed. The safety authority shall then have a month to confirm or reverse its decision. If its decision remains negative, ***the matter may be brought before the inspection body pursuant to Article 30 of Directive 2001/14/EC.***

substantiated, and the applicant may, within a period of one month from notification, request that the decision be reviewed. The safety authority shall then have a month to confirm or reverse its decision. If its decision remains negative, ***a procedure may be initiated pursuant to Article 17(3).***

Or. de

### *Justification*

*Under Article 17(3) of the Safety Directive, judicial review is left to the Member States. The hierarchy within national authorities militates against the inspection authority as a review body, since the Member State authorities are responsible for both the safety authority and the inspection body. Under Article 17 the decisions of the safety authority are already subject to judicial review, and the current inspection body lacks the necessary expertise.*

Amendment by Gabriele Albertini, Jas Gawronski

Amendment 35

ARTICLE 1, POINT 8

Article 14 a, (Directive/2004/49/EC)

***1. In order to facilitate the procedure for authorising the entry into service of the existing rolling stock referred to in Article 14, the national rules shall be assigned to three groups pursuant to Annex VI.***

***deletion***

***2. The Agency shall facilitate the allocation of the national rules in order to permit the adoption of a reference document pursuant to Article 8a of Regulation (EC) No 881/2004. The national authorities shall cooperate with the Agency in this task.***

***3. On the basis of the Agency's recommendations and in accordance with the procedure described in Article 27(2), the Commission shall adopt the reference document as well as any decision to update.***

Or. en

### *Justification*

*For clarity and simplification of legislation, all provisions concerning the authorisation for placing in service of rolling stock shall be unified in one directive.*

Amendment by Jörg Leichtfried

Amendment 36

ARTICLE 1, POINT 8

Article 14 a, paragraph 2 (Directive/2004/49/EC)

2. The Agency shall facilitate the allocation of the national rules in order to permit the adoption of a reference document pursuant to Article 8a of Regulation (EC) No 881/2004. The national authorities shall cooperate with the Agency in this task.

2. The Agency shall ***establish a working party pursuant to Article 3(1) of Regulation (EC) No 881/2004 and shall*** facilitate the allocation of the national rules in order to permit the adoption of a reference document pursuant to Article 8a of Regulation (EC) No 881/2004. The national authorities ***and representatives from the workers' organisations pursuant to Article 3(1), second subparagraph of that Regulation*** shall cooperate with the Agency in this task.

Or. de

### *Justification*

*It must be guaranteed that specific national rules on health and safety at work are not arbitrarily exchanged for inadequate provisions in the TSIs as part of the process of allocating national rules in Group B, but that their content and level of protection are assessed by an independent group of experts (by analogy with Article 3(1) of the ERA Regulation). Mutual recognition can be granted only if equivalence is indeed guaranteed. Staff representatives must be included in the work of this group of experts on health and safety.*

Amendment by Paolo Costa

Amendment 37

ARTICLE 1, POINT 8

Article 14 b (Directive/2004/49/EC)

1. Whenever ***an item of rolling stock*** is placed in service, ***a legal entity to be responsible for maintenance*** shall be

1. Whenever ***a vehicle*** is placed in service, ***a keeper*** shall be designated for each vehicle. ***The keeper shall be responsible for the***

designated for each vehicle. ***This entity may be the railway undertaking itself, one of its subcontractors or the keeper of the vehicle.***

2. In order to demonstrate, in the context of the safety certification provided for in Article 10, that the rolling stock is being maintained in accordance with the requirements in force, the railway undertaking shall give details of the ***legal entities on which responsibility for maintenance has been conferred*** and shall provide documentation explaining the procedures applied by those ***entities*** in carrying out such maintenance

3. Where a railway undertaking uses ***wagons*** belonging to several keepers ***and where responsibility for maintenance has been conferred on those keepers***, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force.

***Where appropriate, the Commission shall establish a maintenance certification system for keepers based on a recommendation from the Agency. This measure, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory control procedure referred to in Article 27(2a)."***

***maintenance of the vehicle. A railway undertaking may be a keeper.***

2. ***The railway undertaking shall be responsible for the operating safety of the vehicles placed in service in the network.*** In order to demonstrate, in the context of the safety certification provided for in Article 10, that the rolling stock is being maintained in accordance with the requirements in force, the railway undertaking shall give details of the ***keepers*** and shall provide documentation explaining the procedures applied by those ***keepers*** in carrying out such maintenance.

3. Where a railway undertaking uses ***vehicles*** belonging to several keepers, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force. ***Whenever a registered keeper is replaced by another keeper in the National Vehicle Register, the first keeper shall transfer, prior to the new registration, all maintenance files kept by him to the keeper that is to be registered in the National Vehicle Register.***

***3a. The Commission shall establish, by 1 January 2010, a maintenance certification system for keepers based on a recommendation from the Agency. The measures designed to amend non-essential elements of this Directive, including by supplementing it, relating to the maintenance certification referred to in this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2a). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 27 (2b).***

Or. en

#### *Justification*

*Clarity between keeper and railway undertaking (RU) is needed regarding responsibility on*

*maintenance and operation of rolling stock. Vehicles placed in service, the overall responsibility to operate them safely in the network should be conferred to RU, thus avoiding confusion of legal obligations. Keepers shall be responsible for maintenance of their vehicles but this is assigned inside of the contractual relationship between them and RUs. A mandatory certification system should be established in order to ensure correct maintenance and safe operation of rolling stock.*

Amendment by Robert Navarro

Amendment 38

ARTICLE 1, POINT 8

Article 14 b (Directive/2004/49/EC)

1. Whenever ***an item of rolling stock*** is placed in service, a ***legal entity to be responsible for maintenance*** shall be designated for each vehicle. ***This entity may be the railway undertaking itself, one of its subcontractors or the keeper of the vehicle.***

2. ***In order to demonstrate, in the context of the safety certification provided for in Article 10, that the rolling stock is being maintained in accordance with the requirements in force, the railway undertaking shall give details of the legal entities on which responsibility for maintenance has been conferred and shall provide documentation explaining the procedures applied by those entities in carrying out such maintenance.***

3. Where a railway undertaking uses ***wagons belonging to several keepers and where responsibility for maintenance has been conferred on those keepers***, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force. ***Where appropriate, the Commission shall establish a maintenance certification system for keepers based on a recommendation from the Agency. This measure, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory control procedure referred to in Article 27(2a)."***

1. Whenever ***a vehicle*** is placed in service, a ***keeper*** shall be designated for each vehicle. ***The keeper shall be responsible for the maintenance of the vehicle. A railway undertaking may be a keeper.***

2. ***Where there is a change of keeper, the previous keeper shall be obliged to provide all the maintenance files in his possession to the new keeper before the change is recorded in the national vehicle register.***

3. Where a railway undertaking uses ***vehicles for which it is not the keeper***, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force.

**4. The Commission shall establish, by 1 January 2010, a maintenance certification system for keepers of wagons based on a recommendation from the Agency. The Commission may also extend such a system to the keepers of other types of vehicle. These measures, designed to amend non-essential elements of this Directive, including by supplementing it, shall be adopted in accordance with the regulatory control procedure referred to in Article 27(2a). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 27 (2b)."**

Or. fr

#### *Justification*

*Under the new system set up under the 1999 COTIF Convention, which no longer obliges keepers of wagons and other vehicles to register their vehicle with a railway undertaking, a mandatory certification system for keepers of railway vehicles, whether wagons or other types of vehicle, would offer more guarantees and strengthen trust between railway undertakings and wagon keepers. This system should not cover only the keepers of wagons but should also apply to the keepers of other railway vehicles.*

Amendment by Jörg Leichtfried

Amendment 39

ARTICLE 1, POINT 8

Article 14 b, paragraph 3 (Directive/2004/49/EC)

3. Where a railway undertaking uses wagons belonging to several keepers and where responsibility for maintenance has been conferred on those keepers, the railway undertaking shall put in place the procedures needed to verify compliance with the requirements in force. Where appropriate, the Commission shall establish a maintenance certification system for keepers based on a recommendation from the Agency. This measure, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in

3. Where a railway undertaking uses wagons belonging to several keepers and where responsibility for maintenance has been conferred on those keepers, the railway undertaking shall put in place the procedures **concerning respect for the maintenance rules in accordance with the TSI provisions that are** needed to verify compliance with the requirements in force. Where appropriate, the Commission shall establish a maintenance certification system for keepers based on a recommendation from the Agency. This measure, designed to

accordance with the regulatory control procedure referred to in Article 27(2a)."

amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory control procedure referred to in Article 27(2a)."

Or. de

*Justification*

*In addition to the transfer of responsibility for maintenance to the railway undertaking using vehicles belonging to several keepers, the use of standard maintenance rules must also be clearly prescribed. The future TSIs will guarantee this. Pending the entry into force of these TSI rules, the Agency must develop a certification system.*

Amendment by Jörg Leichtfried

Amendment 40

ARTICLE 1, POINT 8

Article 14 b, paragraph 3 a (new) (Directive/2004/49/EC)

***3a. The provisions contained in paragraphs 2 and 3 shall be regularly checked by the Member States in accordance with Article 14(2) of the Interoperability Directive.***

Or. de

*Justification*

*Checks on procedures and on compliance with maintenance rules are essential to ensure that railways are operated safely.*

Amendment by Jörg Leichtfried

Amendment 41

ANNEX

Annex 1.3. (Directive/2004/49/EC)

1.3. Rolling stock characteristics:

Vehicle dynamics

1.3. Rolling stock characteristics:

Vehicle dynamics

Vehicle superstructure	Vehicle superstructure
Draw and buffer gear	Draw and buffer gear
Bogie and running gear	Bogie and running gear
Wheel set/wheel set bearing	Wheel set/wheel set bearing
Brake equipment	Brake equipment
Technical systems requiring monitoring; e.g. compressed air system	Technical systems requiring monitoring: e.g. compressed air system
Front and side windows	Front and side windows
Doors	Doors
Devices for passing	Devices for passing
Control systems (Software)	Control systems (Software)
Drinking water and wastewater systems	Drinking water and wastewater systems
Environmental protection	Environmental protection
Fire protection	Fire protection
Health and safety in the workplace	Health and safety in the workplace <b><i>and passenger safety</i></b>
Tanks and tank wagons	Tanks and tank wagons
Pressure discharge containers	Pressure discharge containers
Load securing	Load securing
Marking	Marking
Welding techniques	Welding techniques
	<b><i>Steps and handles for shunting staff</i></b>
	<b><i>Warning devices</i></b>
	<b><i>Emergency brake and emergency brake override</i></b>
	<b><i>Noise emission (internal and external)</i></b>

Or. de

### *Justification*

*The German language version should also include a specific reference to health and safety 'in the workplace', in accordance with current standards. A further category that should also be included here is the health and safety of passengers. All the missing characteristics that are added here ensure that vehicles are operated safely in different situations and thereby make a significant contribution to the safety of people and the environment.*