

4th Railway Package issued by the Commission on 30/01/2013
FIRST COMMENTS on the
DRAFT REPORTS issued by the TRAN Committee's Rapporteurs

Preamble

These first comments of ERFA are based on:

- ERFA position paper (rev.7 – 01/05/2013) on the 4th Railway Package issued by the Commission on 30th January 2013
- ERFA support and/or Amendment's proposals (11/06/2013) to the 3 proposals constituting the technical pillar of the 4th Railway Package

With these first comments here-under on the 3 proposals of the technical pillar, ERFA hopes to feed the exchanges of opinions and debates on the subject in the next TRAN Committee meeting of 8th and 9th July. After the position of the Committee and the issue of the reports, ERFA will certainly be in a better position to suggest more precise amendments.

1. Proposal for a directive on the interoperability / COM(2013) 30

Draft report of the Rapporteur Izaskun Bilbao Barandica

ERFA General Comments

Through the several amendments proposed by the Rapporteur, ERFA welcomes:

- The complements and clarifications introduced in the recitals (14, 48) and in the definitions (art. 2 – 18, 26, 28, 28a new)
- The taking into account of estimated costs and benefits when drafting, adopting, reviewing each TSI and with the participation of the Member States (art. 5 – 1a new, 2b)
- The clear positioning and empowering of the Agency as the only and main Authority in comparison with the initial role proposed to the National Safety Authorities (NSAs) (art.11 – 1, 2)
- A strict control on the Member States and their obligation of documented justifications when dealing with National rules (art.13)

- The introduction of the temporality in urgent preventive measure by a Member State (art.13 – 3db new)
- The speeding up of the process and the consultation of the stakeholders in several situations and especially when a new national rule is proposed by a Member State (art.14)
- The introduction of the Agency as sole/main authorization Authority (art.18 – 1, 2)
- The introduction of defined timing in the authorization process (art.18)
- A drastic simplification in the registers' organization by focusing on the only and necessary European Vehicle and authorization Registers (art.21 – 2, art.43, art.43 4a new)
- ***And finally the strict limitation to ONE year for the bringing into force in the Member States*** (art. 54 – 1)

ERFA also insists on

- Entitlement of the sector representative bodies to request opinions, deliver advices and be regularly informed in case of deficiencies in TSIs (art.6)

2. Proposal for a directive on railway safety / COM(2013) 31

Draft report of the Rapporteur Michael Cramer

ERFA General comments

Through the several amendments proposed by the Rapporteur, ERFA welcomes:

- The complements and clarifications introduced in the recitals (1d new, 4a new, 12, 17, 22, ...)
- The clear mention in article 1 that a main objective of this proposal is to introduce the single safety certificate that is valid and recognized in all Member States (art.1 – 1 ea new)
- The predominant role to be played by the Agency of course in full cooperation with the NSAs (recital 22, art.8 – 2) each within their respective fields of responsibility (art.4 – 1)
- The reminding of the useful role of Registers for the safety status of vehicles (art.4 – 7)
- The support of Member States to the Agency's role of improving railway safety on a EU level (art.5 – 1a new)
- The submission exclusively to the Agency of applications for single certificates (art.10 – 2, art.10 – 4,1, art.11 – 1)
- The focus on clear steps and strict deadlines in the procedures (as already recalled in the recast of the 1st RP) ensuring predictability and transparency (art.10 – 4,2, art.17 – 1)
- The new role for the Agency to harmonize rules on minimum maintenance intervals and quality requirements and on certification of Entities in charge of maintenance (art.14 – 5a new)

- The exchange of expertise and good and best practices between the NSAs with the help of the Agency and the set up on the Agency level of a central database related to incidents and accidents (art.16 – 4a new)
- A general wish to speed up and limit time of the processes
- ***And finally the strict limitation to ONE year for the bringing into force in the Member States***

ERFA also insists on

- The Entitlement of the sector representative bodies to request opinions, deliver advices and be regularly informed on intention of a Member State to introduce a new national rule (art.8 -2)
- The building a real railway European safety level instead of an addition of Member States' safety levels. A sooner empowerment of the Agency is of course facilitating this evolution.

3. Proposal for a regulation on the European Union Agency for Railways / COM(2013) 27

Draft report of the Rapporteur Roberts Zile

General Comments

Through the several amendments proposed by the Rapporteur, ERFA welcomes:

- The complements introduced in some of the recitals (5, 6, 6a new, 14a new, 27a new, 28, 34)
- The support to the centralized role of the new Agency for the single certification and single authorization process
- The taking into account of the difference of track gauges in some Member States and of the particularities it creates for interoperable traffic within the SERA but it is not a sufficient reason to allow applicant to choose whether to apply to the Agency or to the NSA (see the ERFA reservation here-under)
- The need of more clarifications on responsibility and liability of the Agency and NSAs
- The promotion of reciprocal access to the rail market of third countries and the cooperative role the new Agency could play in these circumstances

ERFA expresses reservations on

- The introduction of the “choice open to the applicant” (art. 3a new). For ERFA, all applications have to be submitted exclusively to the new Agency. It allows the Agency to stay permanently informed on the level of national particularities and to better understand and evaluate how to lead faster - with a mid-term vision - its European harmonization task to finally build a fully

interoperable SERA. This responsibility is of course developed in cooperation with concerned NSAs.

- Some recitals weakening the greater European role foreseen for the new Agency (4, 4a new)
- Some recitals introducing the notion of choice for the applicant between the Agency and the NSA (4b new, 11, 11 a new)

ERFA insists that a strong empowered Agency is needed to

- Become THE European Rail System Authority and not only “a single administrative one-stop-shop” but rather a real “operational Competence Centre” fed through cross-fertilization by the permanent rotation of seconded national experts coming from the NSAs. This form of cooperation will allow ERA to better understand and address national specificities.
- Address cross-border and/or national applications for authorization/certification processes. ERA has to be the sole authorization/certification Authority. An applicant should not be entitled to choose.
- Harmonize and limit national rules as best, fast as possible
- Build a real European railway safety level and avoid Member States’ individual safety level.