

**Hearing of 16 July 2003
on train drivers' certification**

WORKING DOCUMENT

EC-DG TREN-E2

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Notice: This working document does not bind the European Commission. It is intended for informal preliminary consultations. It will bind the Commission only when it has been adopted and published in the Official Journal of the European Union.

1. INTRODUCTION

The Council adopted on the 26th of June 2003 its Common Position on the second railway package proposed by the Commission in 2002. In accordance with the draft directive on railway safety, infrastructure managers and railway undertakings are requested to establish their safety management system in such a way that the railway system is at least able to meet the Common Safety Targets (CST) and comply with the national safety regulations and safety requirements defined in the Technical Specifications for Interoperability (TSI) and that the relevant parts of the Common Safety Methods are applied. This safety management system provides, among other things, staff training programmes and systems which ensure that staff competence is maintained and that tasks are carried out in the appropriate manner.

The above-mentioned draft directive also provides that, to be able to gain access to railway infrastructure, a railway undertaking must hold a safety certificate. This is a certificate which confirms acceptance of the measures taken by the railway undertaking to meet the specific requirements necessary for the safe operation of the network concerned. The requirements may concern application of the TSIs and the national safety rules, the acceptance of staff certificates and authorisation to put the railway undertaking's rolling stock into service. With regard to staff, certification is based on the documentation to be provided by the railway undertaking for the various categories of the undertakings or its contractors' staff, including proof that staff meet the requirements of the TSIs or the national rules and have been duly certified.

However a study carried out by the Commission in 2002 highlighted the fact that the laws of the Member States on the certification of train drivers differ considerably and identified the administrative complications this causes when several safety certificates have to be issued to railway undertakings wishing to operate on the networks of different Member States and the resulting operational difficulties in planning cross-border services.

The adoption of Community rules for the certification of train drivers would allow overcoming these difficulties while maintaining the present high level of safety of the Community railway system; here is the objective of this consultation document. Besides the Commission committed itself in the context of the Council political agreement on the 28th of March 2003, *to present by end of 2003 to the European Parliament and the Council a proposal relating to the introduction of a European driving licence for train drivers*¹.

The next chapter presents the guidelines resulting from the analysis of the following works and documents:

- National practices identified in the above-mentioned study and resulting recommendations;
- Social partners works in the context of the sector-based Social Dialogue Committee (reports 1996 and 2000);
- Experiences from other modes of transport gathered through a working group of DG TREN officials;

¹ Official text of the declaration accompanying the adoption of the legislative act

- Council Common Position on the Second Railway Package, adopted on the 26th of June 2003;
- TSI development works in the context of directives 96/48/EC and 2001/16/EC.

2. GUIDELINES

2.1. General points

2.1.1. Purpose

Laying down the conditions and procedures for the certification of train drivers for the carriage of passengers and goods in order to facilitate the certification of railway undertakings while maintaining a high level safety in the Community railway system.

Specifying the tasks for which the competent authorities of the Member States, the train drivers and other stakeholders in the sector, in particular the railway undertakings, infrastructure managers and training bodies are responsible.

2.1.2. Definitions

- a) "competent authority" means the authority appointed by the Member State to issue the certificate after establishing that the applicant for the certificate meets the necessary requirements. This is the national safety authority set up under Article 15 of the draft directive on railway safety;
- b) "train driver" means a person capable of driving shunting engines, works trains and trains for the carriage of passengers or goods by rail in an autonomous, responsible and safe manner;
- c) "infrastructure manager" means any entity or undertaking responsible in particular for the establishment and maintenance of the railway infrastructure, or any part thereof, as defined in Article 3 of Directive 91/440/EEC This may also include the management of infrastructure control and safety systems. The duties of the infrastructure manager on a network or part of a network may be assigned to different entities or undertakings;
- d) "railway undertaking" means any public or private undertaking the business of which is to provide services for the carriage of goods and/or passengers by rail, with the requirement that the undertaking must ensure traction; this also includes undertakings which provide traction only;
- e) "technical specifications for interoperability (TSI)" means the specifications which apply to each subsystem or part of a subsystem in order to meet the essential requirements and to ensure the interoperability of high-speed and conventional trans-European systems, as defined in Directives 96/48/EC and 2001/16/EC;

- f) "Agency", means the European Railway Agency, i.e. the community railway safety and interoperability agency established by the relevant draft Regulation;
- g) "driver's certificate" means the certificate issued by the competent authority in accordance with the envisaged directive, authorising a driver to drive an engine or train;
- h) "safety certificate" means the certificate issued to a railway undertaking by the national safety authority referred to in Article 16 of the draft Directive on railway safety in accordance with Article 10 of that Directive;
- i) "safety authorisation" means the certificate issued to an infrastructure manager by the national safety authority referred to in Article 16 of the draft Directive on railway safety in accordance with Article 11 of that Directive.

2.1.3. Scope

All locomotive and train drivers for the carriage of passengers or goods for all transport operations performed by a railway undertaking requiring a safety certificate or an infrastructure manager requiring a safety authorisation.

2.2. Community model, issuing authority and validity of the certificate

2.2.1. Community model of certificate

1. The Member States which issue a certificate for driving a train for the carriage of goods and passengers, hereinafter referred to as the "certificate", shall do so on the basis of a Community model that will be described later. This model consists of four parts, namely:
 - Part A: identification of the driver, the category concerned (see par. 2 hereafter) and the authority issuing the certificate;
 - Part B: medical checks;
 - Part C: authorisations relating to rolling stock
 - Part D: authorisations relating to infrastructure.
2. The certificate shall refer to a category from A to E in which the train driver is authorised to drive:
 - category A: shunting engines and works trains;
 - category B: local or regional passenger transport;
 - category C: goods transport;
 - category D: long-distance passenger transport;
 - category E: high-speed trains.

3. The certificate shall consist of a card with a chip on which the data in Part A are printed. The data for the other Parts shall be stored in the chip. The Commission shall adopt the physical and computerised characteristics of the certificate on the basis of a draft drawn up by the Agency.

2.2.2. Issuing authority

Certificates shall be issued by the competent authority of the Member States.

2.2.3. Validity of the certificate

Drivers who hold a certificate may drive trains, provided that the railway undertaking (or the infrastructure manager) responsible for the transport operation concerned holds a safety certificate (or has been given a safety authorisation), but only on the network covered by both the driver's certificate and the safety certificate (or safety authorisation).

Certificates issued by the Member States in conformity with the envisaged Directive shall be mutually recognised. This recognition covers all requirements that are not specific to a particular infrastructure or rolling stock.

2.3. Procedure for obtaining a driver's certificate

2.3.1. Minimum requirements

All drivers must have the skills and qualifications required for driving trains. Drivers' tasks will be detailed in annex to the envisaged directive.

2.3.2. Minimum age

To obtain a certificate, the applicant must be at least twenty-one years old.

However, Member States may still issue a driver's certificate from the age of eighteen in the case of category A. The validity of such a certificate would be only national in such a case.

2.3.3. Basic training and skills

1. Applicants shall have basic training equivalent to level 3 as referred to in Council Decision 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications between the Member States of the European Community.
2. Applicants shall provide proof of their physical fitness by passing a medical examination carried out by a doctor of medicine recognised by the competent authority. This examination shall at least cover the criteria to be set out in annex to the envisaged directive.
3. Applicants shall provide proof of mental fitness by passing an examination carried out by a psychologist recognised by the competent authority. This examination shall at least cover the criteria to be set out in annex to the envisaged directive.
4. Applicants shall provide proof of basic language ability, to be specified in annex to the envisaged directive. This criterion shall be re-checked whenever an application is

made for the certificate to be extended to include new infrastructures where new language requirements are involved. This is the case in particular where a driver crosses language borders.

2.3.4. *Professional experience*

A Member State may require, within its territory, that applicants provide justification of at least two years' professional experience in Categories A and B before gaining access respectively to Categories C, D and E.

2.3.5. *Professional qualifications*

1. Applicants must have undergone a full programme of training the broad outlines of which will be described in annex to the envisaged directive. The method of training shall be established by the competent authority.
2. Applicants shall have passed an examination of their general professional knowledge. This examination shall at least cover the general matters to be specified in annex to the envisaged directive.
3. Applicants shall have passed an examination of their professional knowledge relating to the rolling stock for which a certificate is applied for. This examination shall at least cover the matters to be specified in annex to the envisaged directive.
4. Applicants shall have passed an examination of their professional knowledge concerning the infrastructure for which the certificate is applied for. This examination shall at least cover the matters to be specified in annex to the envisaged directive, including knowledge of the lines, the operational rules, the signalling and control-command system and the emergency procedures on the lines to be covered.

2.3.6. *Application for the driver's certificate*

1. The competent authority shall publish the procedure to be followed to obtain a driver's certificate, including the necessary forms.
2. Applications for a driver's certificate shall be submitted to the competent authority by the applicant driver or the applicant driver's employer.
3. Applications sent to the competent authority may concern:
 - the issuing of a new certificate: in this case, the application will be for a novice driver or a driver who was working in this profession before the entry into force of the envisaged Directive, or will be an application for a copy;
 - an update: one or more items of data on the certificate have changed and the certificate must be updated;
 - revalidation: certain examinations are required at periodic intervals. The passing of such an examination must be indicated on the certificate;
 - an extension of the scope: the validity of the certificate is extended to cover a new type of rolling stock or new infrastructure;

- a change of the driver's category.

2.3.7. *Issuing of a driver's certificate*

The competent authority shall issue the certificate or carry out any operation provided for in §2.3.6 no later than three weeks after having received all the necessary documents.

The certificate shall be drawn up in the language(s) of the Member State issuing it. It shall be renewable every five years.

The certificate shall belong to the driver and a single copy only shall be issued. The certificate may not be copied, except by the competent authority if a copy is requested.

2.3.8. *Maintaining the certificate*

1. To be able to keep the certificate, the certificate holder shall sit the examinations and/or undergo the periodic checks covering the requirements referred to in Articles 9, 10 and 11. The Member States shall establish the intervals and scope of such examinations and/or checks, while complying with the following minimum intervals:

- medical checks: every five years up to the age of 40, every three years between the ages of 41 and 61, every year from the age of 62;
- knowledge of the line: every year and where appropriate, after every stoppage of work for more than three months;
- knowledge of the rolling stock: every year and, where appropriate, after every stoppage of work for more than three months.

For each of these checks, the competent authority shall certify that the driver meets these requirements by means of an entry on the certificate.

2. Railway undertakings and infrastructure manager shall establish a system for monitoring drivers certified in the framework of the safety management system. If the results of such monitoring call the driver's competence and the maintenance of the driver's certificate into question, the employer shall contact the competent authority and request the withdrawal of the certificate.

2.3.9. *Changes*

1. The employers of drivers holding a certificate or, where appropriate, the drivers themselves shall immediately inform the competent authority of any major changes to their health or environment likely to call into question the rights conferred on the driver by the certificate.

2. If the competent authority finds that a driver no longer meets one or more of the necessary requirements, it shall immediately withdraw the certificate and notify its reasoned decision to the driver concerned and the driver's employer. The suspension shall be provisional or definitive depending on the seriousness of the risk to railway safety.

2.3.10. Delegation of the competent authority's tasks

1. While remaining fully responsible for its tasks, the competent authority may delegate or subcontract certain tasks, provided that such tasks are carried out without any conflict of interest and in a non-discriminatory and transparent manner.
2. The following tasks may be delegated, subject to the relevant conditions:
 - the checking of physical fitness: this may be delegated to doctors of medicine or to health and safety at work bodies accredited by the competent authority;
 - the checking of mental fitness: this may be delegated to psychologists or to occupational psychology bodies accredited by the competent authority;
 - the checking of general professional competence: this may be delegated to bodies or examiners accredited by the competent authority;
 - the checking of professional competence relating to rolling stock and infrastructure: this may be delegated to bodies or examiners accredited by the competent authority;
 - updating, extending the scope of and revalidating certificates may be delegated to third parties if accredited by the competent authority.
3. If the competent authority delegates or subcontracts certain tasks, the agents or subcontractors shall be required, when carrying out the delegated or subcontracted tasks, to comply with the obligations which apply to the competent authorities.
4. If the competent authority delegates or subcontracts certain tasks, it shall establish a system of monitoring to enable it to ensure that the above-mentioned requirements are met.

2.3.11. Decision-making criteria

1. The competent authority shall carry out its tasks in an open, transparent and non-discriminatory manner. In particular, it shall state the reasons for its decisions.
2. The competent authority shall establish an administrative appeal procedure whereby the employer or, where appropriate, the driver concerned may apply for a review of any decision in respect of an application for new certificate, for an extension of field of application or a withdrawal.
3. The Member State shall take the necessary measures to guarantee legal supervision of the decisions taken by the competent authority.

2.3.12. Mobility between railway undertakings

The certificate issued to a driver shall be the driver's property. If a driver ceases to be employed by a railway undertaking, the railway undertaking concerned shall immediately inform the competent authority. The certificate shall remain valid for one year. During this period, the driver may be recruited by another railway undertaking without need for a new certificate provided that the scope remains the same and without prejudice to the training of the driver requested for his integration in the new company.

If the driver is recruited by another undertaking following the expiry of the certificate, the certificate may nevertheless be renewed at the undertaking's or, where appropriate, the driver's request by means of an application for revalidation.

2.3.13. Exchange of data and registers

1. The competent authority shall undertake to:

(a) keep a register of all certificates which are issued, expired or are revalidated, modified, suspended, annulled or declared as lost or destroyed. This register shall contain all the data for each certificate and shall be updated at least once a week.

(b) inform the competent authority of another Member State immediately if the updating or extension of the scope of a certificate issued by that other Member State has been applied for. In such a case, the authority, which issued the certificate, shall undertake to revalidate or extend the scope on receipt of the relevant information;

(c) provide information about the status of such certificates to the competent authorities of the other Member States, the Agency or any employer of drivers who wishes to know or check certain data during a recruitment procedure.

2. The competent authorities shall cooperate with the Agency with a view to establishing a common computerised system for monitoring the issue and status of the certificates.

2.4. Training and evaluation

2.4.1. Training

The procedure to be followed to obtain the certificate provided for in Article 12(1) consists of the training programme required to meet the professional qualification requirements referred to in §2.3.

The Member States shall ensure that drivers have fair and non-discriminatory access to training services whenever such training is necessary to meet the conditions for obtaining a driver's certificate.

2.4.2. Evaluation

The procedure to be followed to obtain the certificate that will be published by the State when applying the envisaged directive shall give details of the evaluations and the evaluators provided for to check that the professional qualifications required have been obtained.

These evaluations shall be carried out by panels, which are made up so as to be competent and are recognised by the competent authority. They shall be carried out without any conflict of interest.

If necessary, the choice of evaluators and evaluations shall be the subject of Community criteria proposed by the Agency (see article 17 of the draft Regulation) and adopted thereafter by the Commission in accordance with the procedure described hereafter.

2.4.3. Quality standards

The competent authorities shall ensure that all tasks relating to training, the evaluation of competence, the updating of certificates and revalidation are continuously monitored in the framework of a system of quality standards in order to ensure that clearly defined objectives regarding basic requirements and professional qualifications are attained.

2.4.4. Accreditation

Tasks may be delegated only to a person or body, which has previously been accredited by the competent authority, or an accreditation body designated by the Member State. The accreditation process shall be based on the relevant European standards of the EN 45000 series, and on the evaluation of a file presented by applicants providing supporting evidence of their competence in the area concerned.

The competent authority shall publish and update a register of accredited persons and bodies in the framework of the envisaged directive.

2.4.5. Independent evaluation

The Member States shall also ensure that an independent evaluation of the procedures for the acquisition and assessment of knowledge, understanding, fitness and competence, and of the management of the system for issuing certificates, is carried out at intervals of no more than five years. If necessary, the Member States shall take measures to make good any shortcomings revealed by the independent evaluation.

The Member States shall send a report on this evaluation to the Agency within six months of the date of completion of the evaluation.

2.5. Checks and penalties

2.5.1. Checks by the State

1. The competent authority may at any time carry out checks on board trains travelling in the territory for which it is responsible to ensure that the drivers hold train driver's certificates issued in accordance with the envisaged Directive.
2. Notwithstanding the checking of certificates as part of the evaluation here above, drivers may be required to demonstrate their competence in the event of a mistake made at the place of work.
3. The competent authority may carry out administrative investigations concerning compliance with the envisaged Directive by drivers, railway undertakings, infrastructure managers, evaluators, and training centres operating in the territory for which the competent authority is responsible.
4. If a competent authority believes that a driver's certificate issued by the competent authority of another Member State does not meet the relevant criteria, it may contact the authority in the other Member State and ask either for revalidation or withdrawal of the certificate. The authority, which issued the certificate in question, shall undertake to consider the request within a period of three weeks and communicate its decision to the other authority concerned.

5. If a Member State believes that a decision taken by a competent authority of another Member State in the framework of paragraph 4 above does not meet the relevant criteria, the matter shall be referred to the Agency which shall deliver its opinion within a period of three weeks. If necessary, corrective action shall be proposed to the Member State concerned. In the event of a disagreement or dispute, the matter shall be referred to the competent Committee and the Commission shall take the necessary measures by applying the procedure referred to in Article 26(2).

2.5.2. *Criminal penalties*

The Member States shall establish a system of criminal penalties for infringement of the national provisions adopted pursuant to the envisaged Directive and shall take all necessary measures to ensure the application thereof. The penalties adopted shall be effective, proportionate and dissuasive.

2.6. Commission competencies

The Commission shall be assisted by the Committee set up under Article 21 of Directive 96/48/EC and acts in accordance with the regulatory procedure. The Commission may take the necessary measures to adapt the annexes to the envisaged Directive. If necessary, it shall consult the Agency to prepare the adaptation.

2.7. Transitional period

Until [...] the Member States may issue certificates in accordance with the provisions which apply prior to the entry into force of the envisaged Directive in the case of drivers who will be working in their profession or who will start an approved education and training programme or an approved training course prior to the entry into force of the envisaged directive.

The Member States shall replace all certificates issued prior to the entry into force of the envisaged Directive and during the above transitional period by certificates in conformity with the envisaged Directive by a date to be set in accordance with the procedure of §2.6 here above. That date depends on the establishment of the register referred to in §2.3.13 and the infrastructure required for issuing certificates in conformity with the envisaged directive.

2.8. Agency Report

The Agency shall evaluate the progress of the certification of train drivers in accordance with the envisaged Directive. No later than 1 January 2010, it shall submit to the Commission a report containing, where appropriate, improvements to be made to the system regarding the procedures for issuing certificates, the accreditation of training centres and evaluators, the quality assurance system established by the competent authorities, the mutual recognition of certificates and mobility in the employment market. The Commission shall take appropriate measures on the basis of these recommendations.

3. NEXT STEPS

The addressees of this consultation are invited to send a written response to the consultation document by the 15 August 2003 to the address mentioned hereunder. The Commission will take account as far as possible of all comments and of the results of the hearing scheduled on July 16, in view of preparing a legislative proposal after the summer 2003.

Comments to be sent to:

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