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Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the certification of train crews operating locomotives and trains on the Community's rail network**

(presented by the Commission)

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## **EXPLANATORY MEMORANDUM**

### **1. COMMUNITY REGULATORY FRAMEWORK**

The establishment of a single market for railway transport services made it necessary to create a framework of requirements for implementing the opening up of the market and regulating it at EU level. The Community responded to this by adopting the legislative package for railway infrastructure in 2001<sup>1</sup>. By amending particular provisions of the “mother” Directive 91/440/EC, Directive 2001/12/EC clarified the roles and responsibilities of the parties involved, i.e. railway undertakings, infrastructure managers and supervisory bodies, which are responsible for arbitrating in potential conflicts between the first two. Directive 2001/13/EC on the licensing of railway undertakings introduced the principle of mutual recognition by authorising market access for all undertakings which hold a licence in one of the Member States and wish to engage in international goods transport operations. Finally, Directive 2001/14/EC provided a framework for allocating capacity and levying charges for the use of railway infrastructure, based on the dual principle of transparency and neutrality.

This process has at the same time made it necessary to remove “technical” barriers to the development of trans-European transport while maintaining an optimum safety level. The directives on railway interoperability<sup>2</sup> have made it possible to initiate the technical work necessary for defining Technical Specifications for Interoperability (TSIs), which are essential for providing pan-European railway services. The High-Speed TSIs were adopted on 30 May 2002 and the first generation of conventional TSIs is currently being drawn up and should be adopted in May 2004.

By presenting the second railway package<sup>3</sup> in January 2002, the European Commission strengthened the Community legislative framework for railway safety in accordance with the requirements imposed by the definition of an interoperable network, both from a technical viewpoint and that of the personnel running interoperable services. The second railway package comprised four inter-linked legislative proposals:

- A proposal for a **directive on railway safety** to define the key elements of safety management systems for infrastructure managers and railway undertakings. The aim is to develop a common approach to safety and establish a common system for the issue, content and validity of safety certificates, and to introduce the principle of independent accident investigations that already exists in other sectors.
- An **amendment of the interoperability directives 96/48/EC and 2001/16/EC**. In addition to making the adaptations required to harmonise the two directives and to take

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<sup>1</sup> Directives 2001/12/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community’s railways, 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings, and 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, OJ L 75 of 15 March 2001.

<sup>2</sup> Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system, OJ L 235 of 17 September 1996, and Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system, OJ L 110 of 20 April 2001.

<sup>3</sup> Communication from the Commission to the Council and the European Parliament – “Towards an integrated European railway area”, 23 January 2002, COM(2002)18.

account of experience gained in this field, the aim is to acknowledge the role of the future agency and ensure coherence between the scope of the network on which access will be provided and that on which the interoperability rules should apply.

- A proposal for a **regulation establishing a European Railway Agency** to provide technical support for interoperability and safety. The agency will pursue activities in developing common safety standards and establishing and managing a system to monitor safety performance and, secondly, assume the long-term management of the system for drafting and updating TSIs and their follow-up on the ground.
- A proposal for **amending Directive 91/440** to extend rights of access to railway infrastructure to domestic freight services within a Member State and expedite the opening-up of the market.

Final adoption of these proposals is planned for the beginning of 2004.

The proposal for a directive on railway safety requires infrastructure managers and railway undertakings to develop their safety management system in such a way that the railway system can at least attain the Common Safety Objectives, comply with national safety rules and with the safety requirements specified in the TSIs, and that the relevant elements of the Common Safety Methods are applied. In this safety management system, provision is made for staff training programmes and for systems ensuring that staff skills are maintained at an optimum level.

This directive also provides that a railway undertaking must hold a safety certificate in order to have access to the infrastructure. This certificate confirms acceptance of the measures taken by the railway undertaking to meet the specific requirements necessary for safely operating the relevant network. These requirements may concern the application of the TSIs and national safety rules, acceptance of staff certificates and authorisation to operate the rolling stock used by the undertaking. With regard to staff, certification will still be based on documents to be furnished by the undertaking concerning the different categories of their personnel or contractors, including proof that the personnel meets the requirements of the TSIs or the national rules and that it has been duly certified.

**With regard to the latter aspect, it has rapidly become clear that common rules should be adopted on certification of train drivers to facilitate their interoperability and improve management. This should eventually make it easier to certify railway undertakings while maintaining a high level of safety and guaranteeing conditions for free movement of workers in the railway sector.**

Examination of the proposals of the second railway package has highlighted the importance of this aspect of interoperability for establishing an integrated railway market. Accordingly, when political agreement was reached on the Package in the Council on 28 March 2003, the Commission gave a commitment to present to the European Parliament and the Council, by the end of 2003, a proposal on introducing a European train driver's licence. The need for such a proposal was emphasised at the second reading in the European Parliament which agreed to withdraw several amendments on condition that the Commission make an even stronger commitment to submit such a proposal as soon as possible.

## 2. CONTRIBUTIONS EMATING FROM THE SOCIAL DIALOGUE

In 1996, the study group on interoperability of the Joint Committee on Railways<sup>4</sup> sent a report<sup>5</sup> to the European Commission on the social aspects of European railway policy. The social partners involved in drawing up this report were already able to stress **the importance of the social dimension of interoperability as well as the technical dimension for boosting trade using the railways**. The main conclusions of the 1996 report were as follows:

- the skills of train drivers should be harmonised rather than their training;
- the communication requirements between the infrastructure manager and train crews should be defined first;
- certain skills require psychological and medical examinations for which a uniform approach should be adopted.

In their conclusions, the partners pointed out that such convergence of interests highlights the need to harmonise these professional skills in order to establish a *quality assurance process* at Community level.

As a direct response to this first report and taking account of the Commission's proposals on the infrastructure package of 1998 and on interoperability of conventional railways of 1999, the Sectoral Dialogue Committee examined the subject in detail and submitted its conclusions to the Commission in March 2000<sup>6</sup>. The conclusions concerned the classification of skills, possible methods for train drivers' certification and the role of all the players involved (Member States, infrastructure managers, railway undertakings, European institutions).

More recently, the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) reached agreement on general social conditions significant for the European railway market. The negotiations, which had started in February 2003 when the present proposal already appeared on the Commission's work programme for 2003, focused on the working conditions of train crews engaged in cross-border rail transport services and the European train driver's licence. The latter agreement is designed to establish a transitional European licence system<sup>7</sup>, anticipating the implementation of the present proposal for a directive. The said agreement reaffirms the general objectives underlying the introduction of a European train driver's licence:

- to enhance the interoperability of train crews so as to stimulate international railway transport;
- to maintain and raise the safety level and thus guarantee the quality of services provided by train drivers while ensuring and verifying the level of skills adapted to the European networks used;

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<sup>4</sup> Committee set up in 1984 to assist the Commission in drafting and implementing Community social policy in order to improve and harmonise living and working conditions in the railway sector.

Social dialogue at sectoral level is currently organised in accordance with the provisions of the Commission Decision of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level (OJ L 225, 12.8.1998). In the railway sector, a **Social Dialogue Committee** was set up in 1999, bringing together representatives of the Community of European Railways (CER) and the European Transport Workers' Federation (ETF).

<sup>5</sup> Interoperability study group of the Joint Committee on Railways, Working Party No 1, Social aspects of European railway policy, October 1996.

<sup>6</sup> Railway Social Dialogue (ETF/CER), Joint Study Group on Interoperability, Final Report, March 2000.

<sup>7</sup> Agreement between the CER and the ETF on the European licence for drivers carrying out a cross-border interoperability service, 27 January 2004.

- to contribute to the efficiency of methods for managing interoperable train drivers for railway undertakings;
- to reduce the risk of social dumping.

While the question of working conditions of train crews is fully covered by Article 137 of the Treaty and can therefore be implemented through a Council decision in accordance with the provisions of Article 139 of the Treaty, the question of licences relates to safety and interoperability of the railway system. The importance of public safety and the imperative need for uniformity in specifying minimum requirements and licensing conditions call for a clear EU legislative framework which should be fully coordinated with the elements of the second railway package with regard to interoperability and safety.

For the present proposal, the Commission has broadly followed the example of the agreement on the European driver's licence, in particular with regard to minimum requirements concerning medical fitness and psychological suitability, obligatory periodic checks and the description of skills a driver must have. The only major difference between the agreement among the social partners and the present proposal lies in the Community spirit of this proposal as the driver's certificate proposed by the Commission comprises two parts:

- The first part is the EU licence which reflects the minimum Community requirements valid throughout EU territory. It is issued by the authority and belongs to the driver.
- The second part is the harmonised complementary certificate which reflects the particular requirements of the service for which each driver is authorised, i.e. it has restricted validity. It is issued by the railway undertaking.

With the gradual establishment of a single railway area, the Community part will gain in importance. Moreover, the second part could be incorporated in the licence, e.g. in the form of a smart card.

The CER-ETF agreement provides only for the licence issued by the railway undertaking. This licence remains the property of the railway undertaking and is linked to the employment contract. It does not replace national regulations on driver certification.

### **3. THE COMMISSION'S STUDY**

In 2002, the Commission commissioned a study on training and staff requirements for railway staff in cross-border operations<sup>8</sup>.

The conclusions of the study were presented in November 2002. They highlighted the wide diversity of national legislation on certification conditions for train drivers, administrative complications resulting from this for the granting of various safety certificates to railway undertakings wishing to operate on the networks of the Member States, and associated operational difficulties in organising cross-border services.

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ATKINS: Training and staff requirements for railway staff in cross-border operations; Final Report, 28 November 2002.

The study confirms that train crews involved in cross-border operations and personnel responsible for inspecting rolling stock from other Member States or from outside the EU and for dispatching trains with foreign train crews need additional knowledge and training. The skills required vary substantially from one country to another because of the language used, the rules governing operations and signals, knowledge of infrastructure, use of different types of rolling stock and emergency procedures.

Three general recommendations are made in the study:

- The need to specify and implement common minimum requirements for train drivers at European Union (or Member State) level, in particular to replace certification systems based on the practices of former railway operators.
- The need for extending interoperability to a “multi-border” approach going beyond the traditional bilateral approach.
- A recommendation to take advantage of the implementation of harmonised systems such as ERTMS/ETCS in order to simplify the training of train drivers and despatching and control-command staff.

The following more specific recommendations were made: specification of minimum requirements as regards medical examinations and regular check-ups; common specification of psychological profiles; common specification of skills for personnel in cross-border operations; adopting a new approach to ensure follow-up of the level of competence of certified drivers; considering the use of a simplified communication system combined with basic knowledge of a common language; granting full operating rights to foreign train drivers when ERTMS/ECTS is active, but more restrictive operating rights in operational situations where an incident or damage has occurred; developing and implementing operational rules harmonised at European level.

The need to adopt EU rules on the certification of train drivers becomes obvious on reading the study’s conclusions and recommendations. On the basis of the two reports from the social dialogue and the study which the Commission commissioned, and in line with its commitments, the Commission has therefore launched a consultation procedure to evaluate the feasibility of a legislative proposal in this field.

#### **4. SITUATION IN OTHER MODES OF TRANSPORT**

In drafting this proposal, use has been made of Community legislation already in place or in the process of being adopted in other transport sectors. The establishment of systems for driver certification at Community level always meets the same requirements:

- guaranteeing free movement of drivers within EU territory following the opening-up of transport markets.
- guaranteeing an optimum safety level on the networks.

In the maritime sector, the Commission has already set up a system similar to the one put forward in the present proposal, providing for the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland

waterway in the Community<sup>9</sup>. Moreover, the Commission recently presented a proposal for a directive<sup>10</sup> amending Directive 2001/25/EC on the minimum level of training of seafarers, introducing a Community system for the recognition of certificates of competence issued to seafarers from outside the European Union. The purpose of the legislative provisions proposed is to ensure that non-EU seafarers working on board EU vessels have been trained and qualified in accordance with minimum international requirements.

In the road transport sector, while Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers entered into force only recently, the Commission has proposed a revision of EU legislation on drivers' licences<sup>11</sup> designed to standardise the model European licence, establish the principle of limited administrative validity, harmonise the regularity of medical check-ups for professional drivers, and introduce minimum requirements for the initial qualification and training of examiners.

In the aviation sector, Directive 91/670/EEC<sup>12</sup> did introduce the principle of mutual recognition of personnel licences for the exercise of functions in civil aviation, but these provisions quickly proved insufficient in the light of the discussions concerning proposals to establish the Single European Sky. There is in fact no harmonisation of training content and methods, nor of examination and follow-up criteria. In a unilateral declaration, the Commission has therefore announced that it will *present a proposal to Parliament and to the Council on measures designed to remedy the shortage of air traffic controllers and harmonise the system for issuing licences for air traffic controllers and ATM personnel so as to improve safety.*

The present proposal for a directive is intended to introduce provisions in the railway sector along the lines of those already in place or in the process of being introduced in other modes of transport. As indicated above, this should make it possible to facilitate the certification of railway undertakings as provided for in the railway safety directive while maintaining an optimum safety level and guaranteeing the free movement of workers in the sector.

As shown by the following table, certification conditions (training level, age, medical and psychological requirements, issuing authority, etc.) are based on relatively similar models

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9 Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community, Official Journal L 235, 17.09.1996.

10 Proposal for a directive of the European Parliament and of the Council amending Directive 2001/25/EC of the European Parliament and of the Council on the minimum level of training of seafarers, COM(2003)1.

11 Proposal for a directive on driver's licences (Recasting), COM(2003)626 of 08.10.2003.

12 Directive 91/670/EEC of the Council of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation, Official Journal L 373, 31.12.1991.

which however take account of features and requirements pertaining to each mode of transport (physical fitness, age, experience, knowledge of infrastructure, etc.).

<b>Certification conditions</b>	<b>Rail (provision of the proposal)</b>	<b>Road<sup>13</sup></b> 1. General framework 2. Professionals	<b>Aviation<sup>14</sup></b> Air traffic controllers	<b>Maritime transport<sup>15</sup></b> 1. Seafarers 2. Boatmasters
<b>Selection procedure</b>	- Requirements concerning age, physical and mental fitness, education	(1) Requirements concerning age and physical fitness according to type of vehicle  (2) Obligation to hold the corresponding "civil" licence	- Requirements concerning age, theoretical knowledge and language skills, experience, physical and mental fitness	(1) Requirements concerning age and physical and mental fitness  (2) Ditto plus professional experience and knowledge of local navigation conditions
<b>Requirements</b>				
<b>Training programme and examination</b>	- Knowledge of subjects connected with driving a train and knowledge of infrastructure  - Strict language requirements  - Criteria specified in the annex	(1) Theoretical and practical knowledge of driving rules  (2) Knowledge of safety rules while driving and when stationary  - Examination criteria specified in the annex	(1) "Initial" theoretical and practical training for trainee controllers  (2) Unit training for controllers (specific to the unit and area of activity)	(1) Based on requirements under the STCW Convention <sup>16</sup> and on specific responsibility on board  (2) Knowledge of navigational and technical rules (engine, load, etc.)
<b>- Training establishment</b>	- Training institutes or other bodies authorised for this purpose by the competent authority	(1) Private org.  (2) Competent authority designated by the Member State	- Competent authority supervises and may delegate. Certifies training establishments	(1) Maritime training institute designated by the Member State  (2) No specific body
<b>- Examining body</b>	- Training institutes or other bodies authorised for this	(1) Harmonisation of initial qualification of examiners	(1) Initial training: Training establishment  (2) Unit training:	(1) Competent authority designated by the

13 Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No°3820/85 and the proposal for a Directive on drivers' licences (Recasting), COM(2003)626, 08.10.2003.

14 The items in this table refer to a study in progress on introducing a European licence for air controllers.

15 (1) - Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers, OJ EC L 136, 18.05.2001, pp. 0017 – 0041.

- Proposal for a Directive of the European Parliament and of the Council amending Directive 2001/25/EC of the European Parliament and of the Council on the minimum level of training of seafarers, COM(2003).

(2) – Council Directive 96/50/EC of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community, OJ EC L 235, 17.09.1996.

16 STCW Convention on standards of training, certification and watchkeeping for seafarers.

	purpose by the competent authority	(2) Competent authority designated by the Member State	Examiners designated by the competent authority	Member State (2) Ditto (method not defined)
- Issuing of licence	- Licence: the competent authority  - Harmonised complementary certificate: railway undertaking	(1) Competent authority  (2) Competent authority	- National competent authority, independent of training centres  - Air traffic controller	(1) Competent authority or with its authorisation  (2) Competent authority
- Licence holder	- Licence: the driver  - Certificate: railway undertaking	- (1) and (2): the driver		(1) Seafarers  (2) The driver
<b>Licence structure</b>	- Community model: licence, harmonised complementary certificate	- (1) and (2): Community model	- No Community model. Mutual recognition	(1) No EU model  (2) Community model
<b>Monitoring and inspection system</b>	- Periodic medical examination  - Periodic checks (rolling stock and infrastructure)  - Continuous training	(1) Administrative validity to be renewed  (2) Harmonised periodic medical examinations and continuous training	- Periodic verification of physical and mental fitness (renewal)  - Obligatory minimum number of hours of activity required for renewal	(1) Valid for five years  (2) Valid up to the age of 65

## 5. PRE-LEGISLATIVE CONSULTATION

The Commission has consulted stakeholders on the basis of a consultative document published on its Europa website on 2 July 2003. This document was presented, at a hearing organised by the Commission on 16 July 2003, to all the representatives of the sector: infrastructure managers, railway undertakings, social partners and service companies.

The document has aroused considerable interest: about thirty official reactions have been received and published on the Europa website. The principle of a legislative proposal to adopt Community rules on the certification of train drivers has been favourably received. However, there have been calls for a very cautious approach with regard to the economic impact which such a proposal would have as it imposes new certification and documentation procedures. There have also been many comments on details of the mechanisms proposed and on the minimum requirements to be verified. The Commission has taken most of these on board.

This round of consultation and all of the above elements have led to the firm conclusion that, in order to guarantee the requisite uniformity and transparency, the Community should draw up a single certification model in accordance with the principle of mutual recognition, while leaving responsibility for issuing a basic licence to the Member State of origin, in accordance

with the subsidiarity principle, and the task of issuing a harmonised complementary certificate reflecting specific authorisations to the railway undertaking.

The provisions of this proposal for a directive form part of the common transport policy and contribute to attaining the objectives of the Community's policies on the free movement of workers, the freedom of establishment and the freedom to supply services while avoiding risks of distorting competition.

## **6. PRINCIPLES AND STRUCTURE OF THE DIRECTIVE**

### **6.1 Scope**

The Commission has chosen initially to limit the implementation of this proposal for a directive to train drivers in cross-border services who effectively work in the framework of interoperability.

When the proposal was being drafted, it became clear that implementation in two stages would be the most appropriate approach. The main aim is swiftly to apply provisions on the certification of drivers who are most directly affected by the opening-up of the railway market and who have to operate in the territory of other Member States. It is in this context that the requirements connected with railway safety are imperative and a matter of urgency.

In the second phase, the Commission intends, on the basis of a report covering the first phase, to extend the implementation of the European licence to all train drivers, taking account of exceptions which were already provided for in the scope of the proposal for a directive on safety and which form part of the second railway package.

Similarly, other members of the train crew who are indirectly involved in traffic safety will be dealt with later on.

### **6.2 A single model for the certification of train drivers**

In order to ensure that the documents certifying a person's ability to drive trains are standardised in terms of form and content, the Community, in this proposal for a Directive, defines a Community model for certification, in which the validity of the various component parts will be recognised by each of the Member States.

Ideally, drivers should hold a single document in the form of a smart card (containing a chip). The card would be issued by the competent authority, while the information relating specifically to infrastructure, rolling stock and periodic checks would be stored on the chip by the competent authority or, by delegation of powers, by the railway undertaking or any other body authorised for this purpose.

During the pre-legislative consultation, however, railway undertakings resolutely opposed introducing this system immediately for the following reasons:

- the specifications for a smart card of this kind are not yet available,
- considering the number of operations required to update the card, the competent authority would be obliged to delegate these operations to railway undertakings, which would have to procure the costly equipment needed;

- it is not clear that this kind of system affords any added value, given the limited number of train drivers working on cross-border services.

The Commission is therefore proposing that the measure be implemented in two phases:

- in the short term, certification will produce two sections: (a) the licence itself, a card in the same format as the European driving licence, issued by the competent authority on the basis of Community-wide criteria and recognised reciprocally, and (b) a harmonised certificate, issued by the railway undertaking which employs the driver, confirming that the driver has the specific knowledge required (rolling stock, infrastructure, periodic checks);
- in the longer term, the two component parts will be incorporated into a smart card, which meets operational and technical specifications to be defined through the comitology procedure.

In order to ensure that the Community legislative framework on rail safety is as consistent as possible, the authority responsible for issuing the licence will be the national safety authority which is to be established in accordance with Article 15 of the draft rail safety directive [COM(2002)21]. This authority will also be responsible for setting up a national register of licences, which must make it possible to find the key data relating to a driver's actions to gain and upgrade skills.

If Member States apply the principle of reciprocal recognition to the licences and harmonised complementary certificates drawn up in accordance with the Community model, this should facilitate drivers' ability to move both from one Member State to another and from one railway undertaking to another. This level of mobility seems essential, given the prospect of increased opening up of the rail market, and consistent with the various freedoms enshrined in the Treaty in connection with the establishment of a single market in the sector.

### **6.3 Definition of minimum requirements to obtain a driver's certificate**

In accordance with what emerged from the consultation procedure and the preparatory work, the requirements must include at least the minimum age for train drivers, criteria related to the medical and psychological fitness of candidates, their professional experience and knowledge in a number of fields related to train driving, as well as their knowledge of the infrastructure on which they will have to operate.

It should be stressed that these are minimum requirements. A Member State may, if it wishes, impose additional requirements for the issue of drivers' certificates on its territory. If, however, a train driver holding a certificate which complies with the provisions of this draft Directive needs certification in order to gain access to the territory of such a Member State, the State concerned must recognise those sections of the certificate which are equivalent to the minimum requirements defined in the Directive and can therefore impose only additional training in respect of specific infrastructure (line knowledge, signalling, operating rules, etc.).

In response to certain concerns and in order to maintain the European railway system's high level of safety, strict requirements are defined for candidates' language skills. Drivers must have a knowledge of the language(s) indicated by the relevant infrastructure manager(s) to enable them to communicate actively and effectively in routine, abnormal and emergency situations.

Retention of the certificate is subject to periodic checks of the minimum requirements necessary to ensure an optimum standard of service which meets clear safety requirements.

Moreover, this draft Directive acknowledges the high standards of the training institutions and certification procedures which already exist in the Member States, but enables the authority normally competent to delegate some of its tasks. The authority continues to bear full responsibility, but may delegate or sub-contract certain tasks, provided that these tasks are carried out in a transparent and non-discriminatory fashion, without any conflict of interest.

#### **6.4 Training and assessment of skills**

Annex V to the proposal for a Directive defines a general training programme covering the professional knowledge required in order to obtain the licence. This programme is supplemented by training objectives relating more specifically to rolling stock and infrastructure; this is the knowledge required in order to obtain the harmonised complementary certificate, as described in Annexes VI and VII of the proposal.

Given that training opportunities are sometimes limited, Member States will have to publish the procedure for obtaining the licence and for the accreditation of the bodies responsible for training. Candidates must have access to training on a non-discriminatory basis.

The Member States must also specify the procedure for checking the skills acquired by candidates. In order to ensure the utmost transparency and avoid any conflict of interest, boards of examiners must be made up of persons accredited by the national safety authority.

#### **6.5 Inspections and penalties**

The validity and content of the licence and the harmonised complementary certificate may be checked at any time by the authority competent for the territory concerned.

If a competent authority considers that a licence issued by the competent authority of another Member State or a harmonised complementary certificate does not meet the minimum requirements, the draft Directive provides for a procedure to object to the certification, drawing attention to the matter firstly to the issuing authority (or the railway undertaking), then, if necessary, to the Agency and, as a last resort, to the Commission.

### **7. ECONOMIC IMPACT OF THE DIRECTIVE**

#### **7.1 Introduction**

The economic impact of the Directive was assessed by drawing up a plausible reference scenario (the natural development of the situation without the proposal) and a scenario in which the proposal is implemented in two phases, then by assessing its impact in terms of costs and benefits in each of the two scenarios.

This estimate came up against the problem that some information was not readily available; it is therefore based on a number of hypotheses, specifically:

- there is no public information on the costs borne by railway undertakings in respect of driver training and certification;
- the Member States are allowed considerable latitude in their implementation of the proposed Directive, entailing an infinite number of potential scenarios;

- it is impossible to describe exactly the reference scenario that reflects the development of the regulatory framework without the proposed measure in a situation in which the Member States have total freedom to adopt legislation on the subject.

## 7.2 Reference scenario

In the course of the pre-legislative consultation, several States announced their intention to introduce a national legislative framework for driver certification in the near future or, in some cases, reported the legislative framework already in place. This trend is likely to become more widespread, as the forthcoming rail safety directive calls upon Member States to establish national rules for the certification of railway undertakings. If no action is taken at European level, then there will soon be 15 – and later 25 – national certification procedures, which are likely to differ considerably one from the other, reflecting the traditional practices of each national railway company.

In this scenario, solutions would have to be worked out on a case-by-case basis, according to the cross-border operations to be organised, as described in the final report of the Atkins study mentioned in Chapter 3. Drivers will be trained and certified first in one State, and will then have to go through a further cycle of training and certification in each new State in which they wish to work. This amounts to endlessly duplicating training with no predefined strategy, with all the wasted effort, costs and time that that could involve.

## 7.3 Scenario in which the Directive is implemented

The proposed Directive will be implemented in two phases:

- Phase 1: initially it will apply only to drivers operating on cross-border services,
- Phase 2: then it will apply to all other drivers.

The competent authority can assume one of two main roles:

- the competent authority acts only as a supervisory authority. The task of awarding the licence is delegated to a railway undertaking, except in the case of drivers of rival undertakings. The register is set up by this undertaking or by a neutral third party, such as the infrastructure manager. The railway undertakings issue the harmonised complementary certificates;
- the competent authority carries out every aspect of issuing licences and supervision. It awards licences and sets up the register, if necessary sub-contracting the technical and IT tasks. The railway undertakings issue the harmonised complementary certificates.

In either case, the economic impact will vary from one operator to another but, overall, the costs will be approximately the same.

## 7.4 Other hypotheses

### 7.4.1 Number of drivers to be certified

There are approximately 200 000 train drivers in the European Union of 25 Member States. At most 5% of all drivers, i.e. 10 000 drivers, are concerned by the first phase (cross-border services). An annual increase of 5% is expected, following increases in cross-border traffic, i.e. 500 drivers annually. An annual staff turnover of 5% is expected, i.e. 500 drivers each year. This means that there will be 1 000 drivers to be certified each year in phase 1 but 10 000 in phase 2.

Given the number of drivers to be certified, the two phases can overlap: the certification of all other drivers can begin before the certification of drivers involved in cross-border services has been completed.

#### *7.4.2 Costs related to examiners*

One examiner is required for every 50 drivers, so the requirement is for 20 independent examiners in phase 1 and 200 examiners in phase 2. These examiners are to be recruited from the ranks of existing drivers. This will generate additional costs evaluated at €1 000 per driver in phase 1 and €500 in phase 2, plus a flat-rate sum at the beginning of each phase.

#### *7.4.3 Costs related to accreditation*

These costs are based on the following hypothesis: one person per State required for one year in order to set up the system in phase 1, and twice that number in phase 2. In addition, one tenth of a person-year per State is needed annually to maintain the system.

#### *7.4.4 Costs related to production of the licence*

The proposed model follows the model of the European driving licence for motor vehicles. The licence in the form of a plastic card has to be produced for millions of motor vehicle drivers; production costs for volumes in this order have been evaluated at €0.20 per card.

#### *7.4.5 Benefits associated with reducing the duration of training*

The 2002 Atkins Study showed that, in the case of the cross-border services studied, drivers are not able to cross borders without extensive training. By taking account of the international component from the outset, this Directive should make it possible to reduce both the duration of additional driver training and the necessary assessment associated with it. The training time saved in relation to the average time needed to train a driver has been estimated as at least 10%.

#### *7.4.6 Benefits associated with reducing the duration of railway undertaking certification*

In accordance with the rail safety directive, railway undertakings have to apply for safety certificates approving the arrangements made by the railway undertaking to fulfil the specific requirements necessary for the safe operation of the network in question. Requirements may cover the application of TSIs and national safety rules, procedures for issuing certificates to personnel and authorisation for putting into service the rolling stock used by the railway undertaking. For personnel, certification is based on the documentation provided by the railway undertaking concerning the selection of various categories of the staff of the undertaking or its contractors, including evidence that the staff fulfil the requirements of the TSIs or national rules and that they have been duly certified.

This Directive should help reduce the time which the railway undertaking needs to prepare the documentation and the time which the national safety authority needs to assess it.

The following figures for the European Union with 15 members are drawn from a recent NERA study:

- Approximately 800 000 European railway employees,
- Average salary cost: €40 000/year,
- Total wage and salary bill: €32 billion/year,

- Personnel costs, representing on average 50% of operating costs,
- Average operating costs: €64 billion/year,
- Income, representing on average 70% of operating costs, i.e. approximately €44.8 billion/year,
- Freight accounts for approximately 30% of total income, i.e. approximately €13.44 billion/year.

The benefits for established undertakings and new entrants are not identical, but cutting one month from the procedure for obtaining the safety certificate for cross-border operations represents a considerable saving in both administrative costs and start-up costs. Considering the above figures and extrapolating from the European Union of 15 Member States to that with 25 Member States on the basis of population numbers (NERA found that the relationship between traffic levels is approximately the same as between population levels), it is reasonable to assume a mean annual benefit of €5.3 million.

#### *7.4.7 Benefits associated with reducing risks*

Railway undertakings are responsible for selecting and training their drivers. This proposal imposes minimum conditions for driver selection and training as well as a driver certification process. This Directive will therefore help reduce certain rail safety risks, such as those engendered by undertakings which do not apply the minimum conditions for staff selection and training or certain aspects of the certification process.

By way of example, a UIMC working group (International Union of Railway Medical Services) recently investigated the question of the psychological assessment of personnel carrying out safety-critical duties. Their September 2003 report recommends the systematic use of psychological tests when selecting staff and as part of medical examinations after the age of 50, but also if there is any doubt as to an individual's fitness to perform safety-critical tasks. The report shows that accidents could have been avoided if action had been taken after tests had shown certain indications.

Accordingly, the requirements to use accredited examiners, to establish minimum conditions to be adhered to, to check certain criteria regularly and to certify personnel, adhering to key stages, are all aspects which help to reduce the risks of error, incident and accident.

It is no easy matter to quantify benefits of this kind. By way of example, the benefit evaluated by ECORYS in the current cost-benefit analysis, under Directive 2001/16/EC, for the implementation of ERTMS over a twenty-year period is €6.5 million; this is a net present value (NPV) based on a reduction in the number of fatalities evaluated as 14. This value does not take into account the benefits derived from reducing the extent of serious injury and material damage and is limited to the impact on the territory of the European Union of 15 Member States. Another source is the economic analysis carried out for the technical specification for interoperability relating to the "high-speed" control-command and signalling subsystem in 2000, which gave an NPV of €3.7 million. These studies are based on the hypothetical value of €1.5 million per fatal accident.

#### *7.4.8 Benefits associated with greater mobility between undertakings*

The Directive will make it easier for drivers to be recruited by different undertakings. It will therefore reduce the social costs in the event of the closure of restructuring of undertakings. On the other hand, more train drivers may move on their own personal initiative, entailing

additional recruitment costs. The creation of a genuine train drivers' market within the European Union is likely to make the career more attractive. The renewed dynamism anticipated in the European rail market should in time boost recruitment prospects.

## 7.5 Comparative table

The values are given in constant non-discounted euros.

	Reference scenario	Directive – Phase 1	Directive – Phase 2
<b>Costs</b>			
Average cost of training a driver	€45 000	No impact	No impact
Requirement for independent examination	Approximately €35 million	Approx. €1000/driver i.e. €1 million/year, plus €1 million in 2007 i.e. €11 million in total	Approx. €500/driver i.e. €5 million/year, plus €10 million in 2009 i.e. €60 million in total
Requirement for accreditation	Approximately €6 million	€1 million in 2006, plus €0.1 million/year i.e. €2 million	€5 million in 2008, plus €0.5 million/year i.e. €10 million
Setting-up and administration of the register	Approximately €34 million	€1 million per State in 2006, plus €0.1 million/year per State i.e. €46 million	€0.1 million/year per State i.e. €23 million
Production of the paper-based licence (€60/licence)	Approximately €12 million	None	None
Production of the EU licence	None	€2 million in 2006, then €40 000 per year i.e. €2.4 million	€200 000 per year i.e. €2 million
Production of harmonised	None	€60 000 per year	€60 per licence

certificates		i.e. €0.6 million	i.e. €12 million
<b>TOTAL costs</b>	<b>Approx. €87 million</b>	<b>€62 million</b>	<b>€107 million</b>
<b>Benefits</b>			
Benefit: reduction in driver training for a 2 <sup>nd</sup> country	None	€4.5 million/year i.e. €45 million	€4.5 million/year i.e. €45 million
Benefit: reduction in driver certification for a 2 <sup>nd</sup> country	None	€0.1 million/year i.e. €1 million	€0.1 million/year i.e. €1 million
Benefit: reduction in undertaking certification time	Approximately €26.5 million	€5.3 million per year i.e. €53 million	€5.3 million per year i.e. €53 million
Benefit: risk reduction	Approximately €14 million	€7 million	€21 million
Benefit: mobility between undertakings	Approx. €20 million for social costs	None	None
<b>TOTAL benefits</b>	<b>Approximately €20.5 million</b>	<b>€106 million</b>	<b>€120 million</b>
<b>BALANCE</b>	<b>- €66.5 million</b>	<b>+ €44 million</b>	<b>+ €13 million</b>

## 7.6 Conclusions

Without the Directive, maintaining the existing situation would entail a loss of €66.5 million for the 25 States in the coming years.

If the Directive is accepted, the Member States would not only avoid this loss but could also expect a benefit of €44 million for the first phase (certification of drivers operating on cross-border services) and €13 million for the second phase (certification of all other drivers).

## 8. COMMENTS ON THE ARTICLES OF THE DIRECTIVE

### Article 1

This Article specifies the objectives of the proposal for a Directive while confirming the responsibilities of the infrastructure managers and railway undertakings.

### Article 2

This Article defines the terms used in the Directive.

### Article 3

This Article specifies the scope of the Directive. It is aimed not only at drivers but also at other train crew on the locomotive or train who participate directly or indirectly in driving and whose professional qualifications therefore contribute to transport safety. During the pre-legislative consultation, several experts and authorities called for European rules for the certification of personnel assigned to safety-critical tasks; this request was also the subject of amendments by the European Parliament at the first and second readings of the second rail package.

#### Article 4

This Article specifies the Community model for certification and refers to Annex I. The model comprises three sections: the licence itself, the harmonised complementary certificate, and the information to be entered in the national register.

#### Article 5

This Article specifies the bodies responsible for issuing the licence and the harmonised certificate.

#### Article 6

This Article specifies the validity of the licence and of the harmonised complementary certificate.

#### Articles 7 to 11

These Articles specify the requirements to be met in order to obtain the licence and the harmonised complementary certificate.

#### Article 14

This Article specifies the conditions which drivers must fulfil in order to be able to retain the licence and the harmonised complementary certificate. In particular, they concern the periodic checks such as medical examinations and checks of line knowledge.

#### Article 15

This Article specifies the impact on the licence when drivers move from one railway undertaking to another, or when they cease to be employed by an undertaking.

#### Article 16 to 19

These Articles specify the tasks of the authorities competent to issue licences and the system for delegating such tasks.

#### Article 20

This Article specifies the requirements for recording data throughout the driver certification process.

#### Articles 21 to 24

These Articles specify the training, examination and independent assessment procedures.

## Article 25

This Article specifies the provisions applicable to other train crew on the locomotive or train who participate directly or indirectly in driving and whose professional qualifications therefore contribute to transport safety.

## Articles 26 and 27

These Articles cover the inspections that may be carried out by the competent authority and the penalties for which the Member States should provide.

## Articles 28

This Article sets out the possibilities for derogations. The exceptions authorised are identical to those provided for in the Directive on rail safety.

## Articles 29 and 30

Standard provisions regarding the amendment of Annexes and the committee procedure. It should be noted that the competent committee will be the committee set up in accordance with the interoperability directives, which will also be the competent body for the Directive on rail safety.

## Article 31

The Agency is required to monitor the implementation of this Directive and to draw up a report on the progress of certification. This report will make it possible to take the action necessary before applying the Directive to all the drivers and other train crew concerned.

## Articles 32 and 33

Standard provisions on the incorporation of the Directive into national legislation.

## Article 34

This Article proposes the gradual implementation of the Directive: firstly, transposition into national legislation and the creation of the national registers, then the certification of drivers assigned to cross-border services and, lastly, the certification of other drivers and train crew concerned. This Article also specifies the arrangements for drivers already working or in the process of obtaining certification in accordance with the rules applicable prior to the entry into force of this Directive.

## ANNEX I

This Annex specifies the Community model for each component of the certification: the licence, the harmonised certificate, the information to be included in the register.

## ANNEX II

This Annex identifies the driver's duties.

### ANNEX III

The basic requirements for the selection of drivers are specified: length of education, medical examinations, language tests. The necessary periodic checks are also specified. This Annex is based to a great extent on the agreement of the social partners concluded on 27 January 2004.

### ANNEX IV

This Annex specifies the criteria which the general training programme and the examinations must adhere to.

### ANNEX V

The objectives for general professional knowledge are specified. This Annex is based to a great extent on the agreement of the social partners concluded on 27 January 2004.

### ANNEX VI

The objectives for professional knowledge relating to rolling stock are specified. This Annex is based to a great extent on the agreement of the social partners concluded on 27 January 2004.

### ANNEX VII

The objectives for professional knowledge related to infrastructure are specified. This Annex is based to a great extent on the agreement of the social partners concluded on 27 January 2004.

## **9. SUBSIDIARITY**

The proposed Directive seeks to establish a common regulatory framework for the certification of train crew on board locomotives and trains carrying passengers and freight. It will facilitate the interoperability of driving personnel, thus increasing international rail traffic, and maintaining or even improving safety levels and guaranteeing the performance standards of driving personnel by ensuring and checking the skills required for the relevant European networks used. It will also help to make the methods used for managing drivers involved in interoperability more effective for railway companies and to reduce the risk of social dumping.

Since these objectives cannot be sufficiently achieved by the Member States alone, as shown by the Commission study carried out in 2002 (Chapter 3), and can be better achieved by the Community, as shown by the above economic impact assessment (Chapter 7), the Community may adopt measures, in accordance with the principle of subsidiarity enshrined in Article 5 of the Treaty. In accordance with the principle of proportionality laid down in this Article, the Directive does not go beyond what is necessary to achieve these objectives.

## **10. FINANCIAL IMPACT**

This proposal does not include a financial statement.

An existing Committee (Directive 96/48/EC, Article 21) will be used for the decision-making procedures established by this proposal. The cost of any additional meetings will be entered under the budget heading of this committee.

The resulting costs for the Agency will be borne by the Agency; they are already partly taken into account in the financial statement accompanying the draft Regulation establishing the Agency, which is part of the second railway package. In accordance with the Regulation, it is the responsibility of the Executive Director of the Agency, to propose, if necessary, increasing the budget to suit actual needs.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the certification of train crews operating locomotives and trains on the Community's rail network**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission<sup>17</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>18</sup>,

Having regard to the opinion of the Committee of the Regions<sup>19</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>20</sup>,

Whereas:

- (1) Directive 2004/xxx/EC of ... of the European Parliament and of the Council on railway safety<sup>21</sup> requires infrastructure managers and railway undertakings to establish their safety management system in such a way that the railway system is at least able to achieve the common safety objectives and comply with the national safety regulations and safety requirements defined in the Technical Specifications for Interoperability and that the relevant parts of the Joint Safety Methods are applied. This safety management system provides, among other things, for staff training programmes and systems which ensure that staff competence is maintained and that duties are performed in the appropriate manner.
- (2) Directive 2004/xxx/EC [on railway safety] provides that, to be able to gain access to railway infrastructure, a railway undertaking must hold a safety certificate.
- (3) Under Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways<sup>22</sup>, licensed railway undertakings have, since 15 March 2003, a right of access to the trans-European freight network and, from 2008 at the latest, to the entire international freight services network. Furthermore, in the framework of the

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<sup>17</sup> OJ C , p. .

<sup>18</sup> OJ C , p. .

<sup>19</sup> OJ C , p. .

<sup>20</sup> OJ C , p. .

<sup>21</sup> OJ L [...], [...], p. [...].

<sup>22</sup> OJ L 237, 24.8.1991. Directive last amended by the Act of Accession of 2003.

second railway package<sup>23</sup> it is proposed to extend this right of access to the whole network for international rail freight services and for all types of rail freight services. This gradual extension of access rights will inevitably lead to an increase in cross-border rail freight traffic. The result will be a growing demand for drivers trained and certified for cross-border services.

- (4) A study carried out by the Commission in 2002 highlighted the fact that the laws of the Member States on the certification conditions for train drivers differ considerably. Community rules for the certification of train drivers need to be adopted to overcome these differences while maintaining the present high level of safety of the Community railway system.
- (5) Such Community rules must also contribute to the aims of Community policies on the freedom of movement of workers, freedom of establishment and freedom to provide services in the context of the common transport policy, while avoiding any distortion of competition.
- (6) To guarantee the necessary uniformity and transparency, the Community should establish a single certification model, mutually recognised by the Member States, attesting both to train crews' compliance with certain requirements and basic fitness and to their competence, leaving it to the Member States to issue the basic licence and to railway undertakings to issue a harmonised complementary certificate.
- (7) The aim of these common provisions must above all be to make it easier for train drivers to move from one Member State to another, but also from one railway undertaking to another, and generally for the licence and the harmonised complementary certificate to be recognised by all railway sector stakeholders. To this end, it is essential that the provisions establish minimum requirements which applicants must meet to obtain the basic licence and the harmonised complementary certificate.
- (8) The requirements must cover at least the minimum age for driving a train, the applicant's physical and psychological fitness, professional experience and knowledge of certain matters relating to driving a train, and a knowledge of the infrastructures on which drivers will be required to travel.
- (9) This Directive must not prejudice the implementation of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>24</sup>, nor of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>25</sup>.

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<sup>23</sup> Communication of 23 January 2002 from the Commission to the Council and the European Parliament – “Towards an integrated European railway area”, COM(2002) 18.

<sup>24</sup> OJ L 281, 23.11.1995, p. 31.

<sup>25</sup> OJ L 8, 12.01.2001, p. 1.

- (10) All of the information contained in the licence, the harmonised complementary certificate and the registers must be used by the national safety authorities to facilitate evaluation of the staff certification provided for in Articles 10 and 11 of Directive 2004/xxx/EC on railway safety and to speed up the issuing of the safety certificates provided for in the same articles.
- (11) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>26</sup>.
- (12) Member States must provide for inspections and penalties appropriate to infringements of the national provisions for implementing this Directive.
- (13) For rail transport to continue to operate effectively, train drivers who are already working in their profession before the entry into force of this Directive must retain their acquired rights during a transition period.
- (14) Since a common regulatory framework for the certification of train crews operating locomotives and trains for the carriage of passengers and goods cannot be set up by the Member States, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve these objectives,

HAVE ADOPTED THIS DIRECTIVE:

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<sup>26</sup> OJ L 184, 17.7.1999, p. 23.

# **Chapter I**

## **Subject matter, scope and definitions**

### *Article 1*

#### *Subject matter*

This Directive lays down the conditions and procedures for the certification of train crews operating locomotives and trains on the Community's rail network. For this purpose, it also specifies 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 centres, are responsible.

The employment of train crews certified in accordance with this Directive shall not exonerate railway undertakings and infrastructure managers from their obligation to set up a system of monitoring and internal control of the competence and conduct of their train crews pursuant to Article 9 of and Annex III to Directive 2004/xxx/EC on railway safety. The certificate shall not relieve either the railway undertaking or the infrastructure manager of its responsibility as regards safety and, in particular, the training of its staff.

### *Article 2*

#### *Definitions*

For the purposes of this Directive:

- (a) "competent authority" means the authority appointed by the Member State to issue the driver's licence after establishing that the applicant meets the necessary requirements. This is the national safety authority set up under Article 16 of Directive 2004/xxx/EC [on railway safety];
- (b) "train driver" means a person capable of driving shunting locomotives, work trains or trains for the carriage of passengers or goods by rail in an autonomous, responsible and safe manner. A train driver's duties are listed in Annex II to this Directive;
- (c) "train crew" means train drivers and other staff on the locomotive or train who have an indirect role in driving it and whose professional qualifications accordingly contribute to traffic safety;
- (d) "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;
- (e) "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;

- (f) "technical specifications for interoperability" or "TSIs" means the specifications adopted under Council Directive 96/48/EC<sup>27</sup> and Directive 2001/16/EC<sup>28</sup> of the European Parliament and of the Council, which must be complied with in order to ensure the interoperability of the trans-European rail system;
- (g) "Agency" means the European Railway Agency established by Regulation [(EC) No .../2004 [of the European Parliament and of the Council]<sup>29</sup>;
- (h) "safety certificate" means the certificate issued to a railway undertaking by the national safety authority in accordance with Article 10 of Directive 2004/xxx/EC [on railway safety];
- (i) "safety authorisation" means the certificate issued to an infrastructure manager by the safety authority in accordance with Article 11 of Directive 2004/xxx/EC on railway safety;

*Article 3*  
*Scope*

The purpose of this Directive is the certification of train crews operating locomotives and trains on the Community's rail network for a railway undertaking requiring a safety certificate or an infrastructure manager requiring a safety authorisation.

## **Chapter II** **Certification of drivers**

*Article 4*  
*Community certification model*

1. All train drivers shall have the necessary fitness and qualifications to drive trains and shall hold the following documents:
  - (a) a licence identifying the driver and the authority issuing the certificate and stating the duration of validity. The licence shall be the property of the driver and shall be issued, on application, to the driver who satisfies the minimum conditions as regards medical and psychological fitness, basic education and general professional skills. The licence shall comply with the requirements of Annex I;
  - (b) a harmonised certificate stating that the holder has received additional training in the framework of the railway undertaking's safety management system or, in the case of drivers employed by the infrastructure manager, that of the latter,

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<sup>27</sup> OJ L [...], [...]

<sup>27</sup> OJ L 235, 17.9.1996, p. [...].

<sup>28</sup> OJ L 235, 17.9.1996, p. 6.

<sup>29</sup> OJ L [...], [...]

indicating the infrastructures on which the holder is authorised to drive and the rolling stock which the holder is authorised to drive. The harmonised certificate shall comply with the requirements of Annex I.

2. The harmonised complementary certificate shall authorise driving in one or more of the following categories:
  - (a) category A: shunting locomotives and work trains;
  - (b) category B: carriage of passengers;
  - (c) category C: carriage of goods.
3. With regard to the licence referred to in paragraph 1(a) above, the general system for the recognition of professional qualifications established by Council Directive 92/51 shall still apply to the recognition of the professional qualifications of drivers who are nationals of a Member State and have obtained their training certificate in a third country. Drivers whose professional qualifications are recognised on this basis shall have to be issued certificates in accordance with this Directive.

*Article 5  
Issuing bodies*

1. The licence referred to in Article 4(1)(a) shall be issued by the competent authority referred to in Article 2(a). The competent authority may delegate this task only under the terms provided for in Article 17.
2. The harmonised certificate referred to in Article 4(1)(b) shall be issued by the railway undertaking which employs the driver or, where appropriate, by the infrastructure manager.

*Article 6  
Mutual recognition*

1. Once drivers have the licence and the harmonised complementary certificate issued in accordance with this Directive, they may drive trains provided that the railway undertaking or the infrastructure manager responsible for the transport in question has a safety certificate or a safety authorisation, and only on the network covered both by the harmonised complementary certificate and by the safety certificate, or the safety authorisation.
2. Licences issued by a Member State in accordance with this Directive shall be mutually recognised by the other Member States.

## **Chapter III**

### **Conditions and procedure for obtaining the licence and the harmonised complementary certificate**

#### *Article 7*

##### *Minimum requirements*

To obtain the licence, applicants shall satisfy the minimum requirements set out in Articles 8, 9 and 11(1) and (2).

To obtain the harmonised complementary certificate, applicants shall hold a licence and satisfy the minimum requirements set out in Articles 10 and 11(1), (3) and (4).

Without prejudice to Article 6, a Member State may be more demanding with regard to the issuing of licences on its own territory.

#### *Article 8*

##### *Minimum age*

Applicants shall be at least 20 years of age. However, Member States may issue licences from the age of 18 years, the validity of such a licence then being limited to the territory of the issuing Member State.

#### *Article 9*

##### *Training and basic skills*

1. Applicants shall have received basic training equivalent to level 3 as referred to in Council Decision 85/368/EEC<sup>30</sup> and satisfy the requirements laid down in Annex III.
2. Applicants shall provide confirmation of their physical and mental fitness by passing a medical examination conducted by a medical doctor recognised by the competent authority. The examination must cover at least the criteria indicated in Annex III, points 2.1 and 4.
3. Applicants shall demonstrate their psychological fitness by passing an examination conducted by a psychologist recognised by the competent authority. The examination shall cover at least the criteria indicated in Annex III, point 2.2.
4. The basic linguistic knowledge criterion referred to in Annex III, point 5, shall be met and shall be checked whenever drivers have to travel on new infrastructures involving new linguistic requirements.

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<sup>30</sup>

OJ L 199, 31.7.1985, p. 56.

*Article 10*  
*Professional experience*

Without prejudice to Article 6, a Member State may, on its territory, require applicants to provide evidence of at least two years' professional experience in category A, as referred to in Article 4(2)(a), before they are able to move on to categories B and C.

*Article 11*  
*Professional qualifications*

1. Applicants shall have undergone a full programme of training as described in Annex IV, point 1, which consists of a part relating to the licence and a part relating to the harmonised complementary certificate. The training method shall satisfy the criteria in Annex IV, points 2 and 3.
2. Applicants shall have passed an examination testing their general knowledge of their profession; this examination shall cover at least the general subjects listed in Annex V.
3. Applicants shall have passed an examination testing their professional knowledge relating to the rolling stock for which the harmonised complementary certificate is being applied for; this examination shall include at least the general subjects listed in Annex VI.
4. Applicants shall have passed an examination testing their professional knowledge relating to the infrastructures for which the harmonised certificate is being applied for. This examination shall cover at least the general subjects listed in Annex VII. Where appropriate, the examination shall also cover linguistic knowledge in accordance with Article 9(4).

*Article 12*  
*Application for the licence*

1. The competent authority shall publish the procedure to be followed for obtaining a licence, together with the necessary forms.
2. All licence applications shall be lodged with the competent authority by the candidate driver's employer or by the candidate driver.
3. Applications submitted to the competent authority may concern:
  - (a) the granting of a new licence: this may be a matter of a novice driver or a person who was already a driver before this Directive entered into force, or a request for a duplicate;
  - (b) an update: one or more of the licence particulars have changed and must be updated.

*Article 13*  
*Granting of the licence*

The competent authority shall issue the licence no later than three weeks after receiving all the necessary documents.

The licence shall be in the official language(s) of the Member State issuing it. The licence must be renewed every five years.

The licence shall be the property of the driver and shall be issued in a single original. Any reproduction of the licence, other than by the competent authority in the case of a request for a duplicate, shall be prohibited.

*Article 14*  
*Periodic checks*

1. In order to keep the licence and the harmonised certificate, holders shall undergo periodic examinations and/or tests relating to the conditions referred to in Articles 9 and 11. The following minimum frequency shall be observed:
  - (a) medical examinations (physical and mental fitness): every three years up to the age of 60, thereafter every year;
  - (b) line knowledge: to be determined by the competent authority of the Member State concerned;
  - (c) knowledge of rolling stock: to be determined by the railway undertaking employing the driver in accordance with its own safety management system.
  
- For each of these checks the railway undertaking shall affirm by a statement in the harmonised certificate and in the register provided for in Article 20 that the driver has met these requirements.
  
2. Without prejudice to the periodic checks required in paragraph 1, railway undertakings and infrastructure managers shall set up a system for monitoring their drivers. If the results of such monitoring call into question a driver's fitness for the job and the continuation of the licence or the harmonised certificate, the employer shall take the necessary action immediately. If necessary it shall ask the competent authority to withdraw the licence.

*Article 15*  
*Cessation of employment*

When a driver ceases to be employed by a railway undertaking, it shall inform the competent authority without delay.

The licence shall remain valid without prejudice to Article 14.

The harmonised complementary certificate shall become invalid on cessation of employment.

*Article 16*  
*Amendments and withdrawals*

1. If there is any change in a driver's state of health likely to call into question their fitness for the job and the continuation of their licence or harmonised complementary certificate, the employer or the driver, as appropriate, shall inform the competent authority without delay
2. If the competent authority finds that a driver no longer satisfies one or more required conditions, it shall immediately withdraw the licence and, where appropriate, the harmonised complementary certificate. It shall immediately inform the party concerned and their employer of its reasoned decision, without prejudice to the right of appeal provided for in Article 19. The suspension shall be temporary or permanent depending on the scale of the problems created for rail safety. The competent authority shall update the register provided for in Article 20.
3. Member States shall take all the necessary steps to avoid the risks of falsification of certificates and tampering with the register provided for in Article 20. Employers shall be required to ensure and to check that the licences and complementary certificates of their drivers in service are valid.

## **Chapitre V**

### **Tasks and decisions of the competent authority**

*Article 17*  
*Tasks of the competent authority*

1. The competent authority shall fulfil its tasks in a transparent and non-discriminatory manner.

It shall respond quickly to requests for information and present any requests for additional information without delay during the preparation of the licences.

2. The competent authority may delegate or subcontract the tasks referred to in paragraph 4 to third parties provided that such tasks can be carried out by the authorised representative or subcontractor without any conflict of interest.

Tasks shall be delegated in a transparent and non-discriminatory manner.

3. When the competent authority delegates or subcontracts tasks to a railway undertaking, at least one of the following two conditions shall be complied with:

- (a) the railway undertaking shall issue licences only to its own drivers;
- (b) the railway undertaking shall not enjoy exclusivity in the territory concerned for any of the delegated or subcontracted tasks.

4. The tasks referred to in (a) to (e) may be delegated subject to the conditions attached to them:
  - (a) the testing of physical and mental fitness shall be carried out by medical doctors or occupational health institutes accredited by the competent authority;
  - (b) the testing of psychological fitness shall be carried out by psychologists or occupational psychology institutes accredited by the competent authority;
  - (c) the testing of general professional knowledge shall be carried out by institutes or examiners accredited by the competent authority;
  - (d) the granting of new licences and the updating of licences may be delegated to third parties accredited by the competent authority;
  - (e) the tasks relating to the keeping of the register referred to in Article 20 may be delegated to third parties appointed by the competent authority.
5. When a competent authority delegates or subcontracts tasks, the authorised representative or subcontractor shall be required, in performing such tasks, to comply with the obligations imposed on the competent authorities by this Directive.
6. When a competent authority delegates or subcontracts tasks, it shall set up a system for checking whether these tasks have been carried out, which will enable it to make sure that the conditions laid down in paragraphs 2 and 3 are being complied with.
7. The testing of professional knowledge relating to the rolling stock and infrastructures shall be carried out by the railway undertaking.

*Article 18  
Accreditation*

Tasks may be delegated under Article 17 only to persons or bodies already accredited by the competent authority or by an accreditation body appointed by the Member State. The accreditation process shall be based on the relevant EN 45000 series European standards and on the evaluation of a dossier submitted by candidates which provides appropriate evidence of their skills in the area in question.

The competent authority shall publish and update a register of persons and bodies accredited under this Directive.

*Article 19  
Decisions of the competent authority*

1. The competent authority shall state the reasons for its decisions.
2. The competent authority shall set up an administrative appeals procedure allowing employers and drivers to request a review of a decision relating to any application as referred to in Article 12 or any withdrawal as referred to in Article 16(2).

3. Member States shall take the necessary steps to ensure juridical control of the decisions taken by a competent authority.

*Article 20*  
*Registers and exchange of information*

1. The competent authorities shall be required to:
  - (a) keep a register of all licences issued, expiring, amended, suspended, cancelled or reported lost or destroyed. This register shall contain the particulars of every licence, which can be called up using the national number allotted to each driver. It shall be regularly updated;
  - (b) supply information on the status of such licences to the competent authorities of the other Member States, the Agency or any employer of drivers who wishes to know or to check certain particulars during a recruitment procedure.
2. The railway undertakings shall be required to:
  - (a) keep a register of all harmonised complementary certificates issued, expiring, amended, suspended, cancelled or reported lost or destroyed. This register shall contain the particulars of every certificate, as well as the particulars relating to the periodic checks provided for in Article 14. It shall be regularly updated;
  - (b) cooperate with the competent authority of the State where they are domiciled in order to interconnect its register with that of the competent authority so as to give it immediate access to the particulars required;
  - (c) supply information on the status of such certificates to the competent authorities of the other Member States.
3. The competent authorities shall cooperate with the Agency in order to ensure the interoperability of the registers. To this end the Commission shall adopt, according to the procedure referred to in Article 30(2), and on the basis of a draft prepared by the Agency, the basic parameters of the registers to be set up, such as the particulars to be recorded, their format and the data exchange protocol.
4. The competent authorities shall make sure that the registers which they set up under paragraph 1 and the modes of operation of such registers comply with Directive 95/46/EC.
5. The Agency shall make sure that the system set up under paragraph 2(a) and (b) complies with Regulation (EC) No 45/2001.

## **Chapter VI**

### **Training of drivers**

#### *Article 21 Training*

1. The procedure to be followed with a view to obtaining the licence provided for in Article 12(1) shall include the training programme needed to comply with the professional qualification requirements referred to in Article 11.

The objectives of this training are defined in Annex V. They may be supplemented:

- a) either by the relevant technical specifications for interoperability;
  - b) or by the criteria proposed by the Agency pursuant to Article 17 of Regulation (EC) No .../2004 and adopted by the Commission in accordance with the procedure referred to in Article 30(2).
2. The procedure to be followed to obtain the harmonised certificate is specific to each railway undertaking. The objectives of the training programme are set out in Article 11 and, more particularly, in Annexes VI and VII.
  3. Pursuant to Article [13] of Directive 2004/xxx/EC [on rail safety], Member States shall take steps to ensure that drivers have fair and non-discriminatory access to the training needed to fulfil the conditions for obtaining the licence and the complementary harmonised certificate.

#### *Article 22 Examinations*

The examinations and examiners intended for the purpose of checking the requisite professional qualifications shall be determined when laying down the procedure to be followed to obtain the licence provided for in Article 12(1) and the harmonised complementary certificate. These examinations shall be overseen by selection boards made up of competent examiners accredited by the competent authority; they shall be organised in such a way as to avoid any conflict of interest.

The choice of examiners and examinations shall be governed by Community criteria proposed by the Agency and adopted by the Commission under the procedure laid down in Article 30(2). In the absence of such Community criteria, the competent authorities shall establish national criteria.

## **Chapter VII**

### **Assessment**

#### *Article 23 Quality standards*

The competent authorities shall ensure that all tasks associated with training, assessment of skills, updating of licences and complementary certificates are the subject of continuous monitoring under a quality standards system designed to guarantee the achievement of the objectives set out in this Directive with regard to basic requirements and professional qualifications.

#### *Article 24 Independent assessment*

1. An independent assessment of the procedures for the acquisition and assessment of knowledge, understanding, skills and competence, and of the system for the issuing of licences and harmonised complementary certificates, shall be carried out in each Member State at intervals of not more than five years. The assessment shall be carried out by qualified persons who are not themselves involved in the activities concerned.
2. The results of these independent assessments shall be duly documented and brought to the attention of the competent authorities concerned. If need be, Member States shall take appropriate measures to remedy any shortcomings brought to light by the independent assessment.

## **Chapter VIII**

### **Certification of other staff**

#### *Article 25 Provisions applicable to other staff*

Apart from the driver, any staff member present on board the locomotive or train and indirectly involved in driving the locomotive or train shall be in possession of a certificate issued by the competent authority in accordance with the provisions of this Article.

Articles 4 to 24 shall apply *mutatis mutandis* to the abovementioned staff, except with regard to the criteria to be met regarding training, basic skills and professional qualifications.

These criteria shall be laid down:

- either through the relevant TSIs;
- or through the criteria proposed by the Agency in the framework of Article 17 of Regulation (EC) No .../2004 and successively adopted by the Commission in accordance with the procedure described in Article 30(2).

In the absence of such Community rules, the competent authority shall establish and publish the minimum requirements to be met.

## **Chapter IX**

### **Inspections and penalties**

#### *Article 26 State controls*

1. The competent authority may at any time take steps to verify, on board trains operating in its area of jurisdiction, that the driving personnel are in possession of the documents issued pursuant to this Directive.
2. Notwithstanding verification as provided for in paragraph 1, drivers may be required to demonstrate their competence in the event of negligence at the workplace. Such a demonstration may consist, in the main, in verifying compliance with the requirements set out in Article 11(3) and (4).
3. The competent authority may carry out administrative enquiries regarding compliance with this Directive by drivers, railway undertakings, infrastructure managers, assessors and training centres pursuing their activities in their areas of jurisdiction.
4. If a competent authority considers that a licence issued by a competent authority in another Member State fails to comply with the relevant criteria, it may approach that authority and request either that a further inspection be carried out or that the licence be withdrawn. The authority that issued the licence in question shall undertake to examine the request within three weeks and to notify the other authority of its decision.
5. If a competent authority considers that a complementary certificate fails to comply with the relevant criteria, it may approach the railway undertaking and request either that a further inspection be carried out or that the complementary certificate be withdrawn.
6. If a Member State considers that a decision taken by a competent authority in another Member State pursuant to paragraph 4 fails to comply with the relevant criteria, the matter shall be referred to the Commission which shall deliver its opinion within three months. If necessary, corrective measures shall be proposed to the Member State concerned. In the event of disagreement or dispute, the matter shall be referred

to the Committee mentioned in Article 30(1), and the Commission shall take whatever measures are necessary in accordance with the procedure set out in Article 30(2).

*Article 27  
Penalties*

The Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, non-discriminatory and dissuasive. The Member States shall notify the Commission of those provisions by the date specified in Article 33 at the latest and shall notify it without delay of any subsequent amendment affecting them.

**Chapter X  
Final provisions**

*Article 28*

*Derogations*

Member States may exclude from the measures they adopt in implementation of this Directive:

- a) metros, trams and other light rail systems;
- b) networks that are operationally separate from the rest of the rail system and are intended only for the operation of local, urban or suburban passenger services and undertakings operating solely on those networks;
- c) privately owned railway infrastructure that exists solely for use by the infrastructure owners for their own freight operations.

*Article 29  
Amendments to the annexes*

The Annexes shall be adapted to scientific and technical progress, in accordance with the procedure referred to in Article 30(2).

*Article 30  
Committee*

1. The Commission shall be assisted by the Committee set up by Article 21 of Directive 96/48/EEC.

2. Where reference is made to this paragraph, the regulatory procedure laid down in Articles 5 and 7 of Decision 1999/468/EC shall apply, in compliance with Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

3. The Committee shall adopt its rules of procedure.

*Article 31  
Report*

The Agency shall evaluate the development of the certification of train drivers in accordance with this Directive. It shall submit to the Commission, not later than 1 January 2010, a report containing, where appropriate, improvements to be made to the system as regards the procedures for issuing licences and harmonised complementary certificates, the accreditation of training centres and assessors, the quality system put in place 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 and shall propose, if necessary, changes to this Directive.

*Article 32  
Cooperation*

Member States shall assist one another in the implementation of this Directive.

*Article 33  
Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...]<sup>31</sup> at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the essential provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

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<sup>31</sup> Twenty-four months following the date of entry into force.

*Article 34*  
*Gradual phasing-in*

1. This Directive shall be phased in gradually in stages as indicated below.
  - a) During the first stage (2006-2008), Member States shall transpose this Directive into national law. The registers mentioned in Article 20 shall be set up.
  - b) During the second stage (2008-2010), an initial group of drivers shall be certified in accordance with this Directive; the group in question shall consist of drivers assigned to cross-border services. At the end of this stage, the report produced by the Agency pursuant to Article 31 shall form the basis for a preliminary assessment.
  - c) The third stage (2010-2015) shall involve the certification of the other drivers and other staff.
2. A transition period shall be defined as the period commencing on the date of entry into force of this Directive and ending two years following the Decision on the basic parameters contained in the registers, as provided for in Article 20. During the transition period, Member States may certify drivers in accordance with the provisions which applied prior to the entry into force of this Directive in the case of drivers who were working in their profession or who started an approved education and training programme or an approved training course prior to the entry into force of this Directive.
3. Member States shall replace, before 2015, all certificates issued prior to the entry into force of this Directive and during the above transition period by licences and harmonised complementary certificates in conformity with this Directive.
4. All drivers duly certified in accordance with the provisions which applied prior to the entry into force of this Directive may continue to pursue their professional activities until 2010 in the case of cross-border services, and until 2015 in other cases. This Directive does not confer any mutual recognition rights on the relevant certificates, albeit without prejudice to the general mutual recognition scheme set up under Directive 92/51 which shall continue to apply until the end of the transition period.
5. During the second stage, the Agency shall examine the possibility of using a smartcard instead of the licence and harmonised complementary certificate provided for in Article 4. Such a smartcard would have the advantage of combining these two items in one and at the same time could be used for other applications either in the area of security or for driver management purposes. Where appropriate, the Commission shall adopt, in accordance with the procedure set out in Article 30(2) and on the basis of a draft prepared by the Agency, the technical and operating specifications for such a smartcard.

*Article 35*

This Directive shall enter in force on the day following that of its publication in the Official Journal of the European Communities.

*Article 36*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament  
The President*

*For the Council  
The President*

## **ANNEX I**

### **COMMUNITY MODEL LICENCE AND COMPLEMENTARY CERTIFICATE**

#### **1. CHARACTERISTICS OF THE LICENCE**

The physical characteristics of the train driver's licence must be in conformity with ISO standards 7810 and 7816-1.

The methods for verifying the characteristics of the driving licences to ensure that they are consistent with international standards must comply with ISO standard 10373.

#### **2. CONTENTS OF THE LICENCE**

The front of the licence shall contain:

- a) the words "Train driver's licence" printed in large type in the language or languages of the Member State issuing the licence;
- b) the name of the Member State issuing the licence (optional);
- c) the distinguishing sign of the Member State issuing the licence in accordance with the country's ISO 3166 code, printed in negative in a blue rectangle and encircled by 12 yellow stars;
- d) information specific to the certificate issued, numbered as follows:
  1. the surname of the holder;
  2. other name(s) of the holder;
  3. the date and place of birth of the holder;
  4. a. the date of issue of the licence;
  4. a. the date of expiry of the licence;
  4. c. the name of the issuing authority;
  5. the number of the certificate giving access to data in the national register;
  6. a photograph of the holder;
  7. the signature of the holder;
  8. the permanent place of residence or postal address of the holder (optional);

- e) the words “European Communities model” in the language or languages of the Member State issuing the licence and the words “Train driving licence” in the other languages of the Community, printed in yellow to form the background of the licence;
- f) the reference colours:
  - blue: Pantone Reflex blue,
  - yellow: Pantone yellow.

### **3. HARMONISED COMPLEMENTARY CERTIFICATE**

The harmonised complementary certificate shall contain:

- 9. the name and address of the railway undertakings for which the driver is authorised to drive trains;
- 10. the categories in which the holder is entitled to drive;
- 11. the type of rolling stock which the holder is authorised to drive;
- 12. the infrastructure on which the holder is authorised to drive;
- 13. any additional information or restrictions.

### **4. DATA CONTAINED IN NATIONAL REGISTERS**

#### a) Data relating to the licence:

- 14. Data relating to checking the requirements set out in Article 8;
- 15. Data relating to checking the requirements set out in Article 9;
- 16. Data relating to checking the requirements set out in Article 10;
- 17. Data relating to checking the requirements set out in Article 11(1) and (2);
- 18. Data relating to periodic checks – Article 14.

#### b) Data relating to the harmonised complementary certificate:

- 19. Data relating to the railway undertaking (authorised rolling stock – Article 11(3), authorised services, training relating to the safety management system);

20. Data relating to checking the requirements set out in Article 11(4): authorised infrastructure (refer to the register of infrastructure provided for in Article 24 of Directives 96/48/EC and 2001/16/EC);
21. Data relating to periodic checks – Article 14.

## **ANNEX II**

### **Duties of train drivers**

1. Before departure, carrying out the prescribed checks in particular in relation to the functioning and load capacity of the vehicle.
2. Helping to check the effectiveness of the brakes.
3. Driving locomotives in a proper and safe manner with due regard to signals, speed limits and schedules.
4. Operating the safety deadman circuit and the train controlling system, and observing and operating instruments.
5. Recognising and identifying technical and operational faults and unusual incidents in good time, and, when required, inspecting carriages and wagons for damage and defects, protecting the train and summoning assistance.
6. Rectifying minor faults and taking steps to initiate repair work in the event of more serious faults to vehicles.
7. Shunting the train safely.
8. Dealing with routine records and submitting concise written, oral or computerised reports on unusual incidents.

## **ANNEX III** **BASIC REQUIREMENTS**

### **1. QUALIFICATIONS**

- at least nine years' secondary education, followed by two to three years' post-secondary education in technical professions or in an apprenticeship or in commercial professions.
- or: at least 12 years' education.

### **2. MINIMUM CONTENT OF THE EXAMINATION BEFORE APPOINTMENT**

#### **2.1 Medical examinations**

- a general medical examination;
- examinations of sensory functions (vision, hearing, colour perception);
- blood or urine tests to detect diabetes mellitus and other conditions as indicated by the clinical examination;
- an ECG at rest;
- tests for illegal drugs.

#### **2.2 Psychological examinations**

The purpose of the psychological examinations is to assist the railway undertaking in the appointment and management of staff who have the cognitive, psychomotor, behavioural and personality skills to perform their duties safely.

In determining the content of the psychological examination, the psychologist must, as a minimum, take into account the following criteria which are relevant to the requirements of each safety function:

- Cognitive: attention and concentration; memory; perception; reasoning; communication;
- Psychomotor: reaction time, hand coordination;
- Behavioural and personality: emotional self-control, behavioural reliability, autonomy, conscientiousness.

If the psychologist omits any of the above criteria, this decision must be justified and documented.

### **3. PERIODIC EXAMINATIONS AFTER APPOINTMENT**

In addition to the frequency indicated in Article 14(1), the occupational physician must increase the frequency of examinations if the health of the member of staff so requires.

#### **3.1 Minimum content of the periodic medical examination after appointment**

If the worker complies with the criteria required for the examination which is carried out before appointment, the specialised periodic examinations must include as a minimum:

- a general medical examination;
- an examination of sensory functions (vision, hearing, colour perception);
- blood or urine tests to detect diabetes mellitus and other conditions as indicated by the clinical examination;
- tests for illegal drugs where clinically indicated.

In addition, an ECG at rest is also required for train drivers over 40 years of age.

#### **3.2 Validation of physical fitness**

Physical fitness shall be checked regularly and after any occupational accident. The occupational physician or the medical service of the undertaking can decide to carry out an additional medical examination, particularly after a period of 30 days' sick leave. The employer can ask the physician to check the physical fitness of the driver if the employer had to withdraw the driver from service for safety reasons.

At no time during their service must drivers be under the influence of any substance which is likely to affect their concentration, attention or behaviour.

### **4. MEDICAL REQUIREMENTS**

#### **4.1 General requirements**

Staff must not be suffering from any medical conditions or be taking any medication which is likely to cause:

- a sudden loss of consciousness;
- a reduction in attention or concentration;
- sudden incapacity;
- a loss of balance or coordination;
- significant limitation of mobility.

#### **4.2 Vision**

The following requirements as regards vision must be complied with:

- aided or unaided distance visual acuity: 0.8; minimum of 0.3 for the worst eye;
- maximum corrective contact lenses: hypermetropia +5 / myopia -8. Derogations are authorised in exceptional cases and after having obtained the opinion of an eye specialist. The occupational physician then takes the decision;
- near and intermediate vision: sufficient, whether aided or unaided;
- contact lenses are authorised;
- normal colour vision: use of a recognised test, such as Ishihara, as well as another recognised test if required;
- field of vision: full;
- vision for both eyes: effective;
- binocular vision: effective;
- sensitivity to contrasts: good;
- no progressive eye diseases;
- lens implants, keratotomies and keratectomies are allowed only on condition that they are checked on a yearly basis or at intervals set by the occupational physician.

#### **4.3 Hearing requirements**

Sufficient hearing confirmed by an audiogram, i.e.:

- hearing good enough to hold a phone conversation and to be able to hear warning sounds and radio messages.

The following values should be taken as guidelines:

- the hearing deficiency must not be higher than 40 dB at 500 and 1 000 Hz;
- the hearing deficiency must not be higher than 45 dB at 2 000 Hz for the ear with the worst air conduction of sound.

#### **4.4 Pregnancy**

In the event of poor tolerance or a pathological condition, pregnancy must be considered to be a reason for the temporary exclusion of drivers. The occupational physician (as defined above) must ensure that the legal provisions protecting pregnant workers are applied.

#### **4.5 Special health criteria for drivers**

##### **4.5.1 Vision**

- aided or unaided distance visual acuity: 1.2; at least 0.5 for the worst eye;
- ability to withstand dazzle;

- coloured contact lenses and photochromatic lenses are not allowed. UV filter lenses are allowed.

#### *4.5.2 Hearing and speaking requirements*

- no anomaly of the vestibular system.
- no chronic speech disorder (given the necessity to exchange messages loudly and clearly);
- no use of hearing aids.

#### *4.5.3 Anthropometrics*

The anthropometric measures of staff must be suitable for the safe use of the rolling stock. Drivers must not be required or allowed to operate particular types of rolling stock if their height, weight or other characteristics would make this unsafe.

### **5. LANGUAGE TESTS**

Staff responsible for controlling rail traffic must be able to use the messages and communication method described in the "Operations" TSI.

Drivers and other staff of railway undertakings who have to communicate with the infrastructure manager on critical safety issues must have language skills in the language indicated by the infrastructure manager concerned. Their language skills must be such that they can communicate actively and effectively in routine, adverse and emergency situations.

**ANNEX IV**

**PROFESSIONAL QUALIFICATIONS**

**General programme and training method**

**1. INTRODUCTION**

The content and organisation of the training courses must cover:

- an introduction to the railway undertaking and the post concerned, including first aid and health and safety at work;
- operational rules, traffic safety regulations;
- engineering (railway infrastructure and rolling stock) with emphasis on signalling, braking systems and train control systems, train preparation and fault detection and repairs. Decision-making about the fitness for service of the locomotive;
- communication; training in loudspeaker usage as part of customer service;
- acquisition of driving skills: accompanying an experienced driver, driving under supervision, simulator, independent driving;
- local conditions and route knowledge acquisition; this training may take place after qualifying when the train driver is assigned to a particular area of duty;
- incidents and abnormal situations: coping under stress and in conflict situations;
- fire-fighting.

The skills required are divided into three parts:

- The 'general' part, details of which are given in Annex V;
- The part relating to rolling stock, details of which are given in Annex VI;
- The part relating to infrastructure, details of which are given in Annex VII.

**2. TRAINING METHOD**

There should be a good balance between theoretical training (classroom and demonstrations) and practical training (on-the-job experience, driving with and without supervision).

Computer-aided training is accepted for individual learning of the operational rules, signalling situations, etc. However, simulators of the latest generation should be used.

The use of simulators may be useful for the effective training of drivers; they are particularly useful for reducing the driving time on the infrastructure, training to deal with abnormal situations and further training on new types of locomotives.

Concerning the acquisition of route knowledge, the approach to be favoured is where the train driver accompanies another driver for a number of journeys along the route, both in daylight and at night. Videos of the routes as seen from the driver's cab can be used as an alternative training method.

### **3. EXAMINATION**

There must be theoretical and practical examinations at the end of the training course.

Assessment of driving ability is normally made in driving tests on the network. Simulators may also be used for examining the application of operational rules and the driver's performance in particularly difficult situations.

## **ANNEX V**

### **EXAMINATION ON GENERAL PROFESSIONAL KNOWLEDGE**

#### **General matters**

The general training has the following objectives:

- acquiring the knowledge and procedures regarding of railway technologies, including safety and operational regulations;
- acquiring knowledge and procedures regarding the risks related to railway operation and the various means to be used to combat them;
- acquiring knowledge and procedures regarding one or more railway operating modes;
- acquiring knowledge and procedures regarding one or more types of rolling stock.

In particular, drivers must be able to:

- understand the specific requirements for working in the profession of driver, its importance, and the professional and personal demands (long periods of work, being away from home, etc),
- apply staff safety rules,
- identify traction units,
- know and apply a working method in a precise manner;
- identify the reference and applications documents (manual of procedures and manual of lines as defined in the 'Operations' TSI, driver's manual, breakdown manual, etc);
- adopt a lifestyle which is compatible with the profession of a safety operative,
- identify the procedures applicable to accidents involving persons,
- distinguish the hazards involved in railway operations in general,
- know the principles governing traffic safety,
- apply the principles of electrotechnology.

## **ANNEX VI**

### **EXAMINATION OF PROFESSIONAL KNOWLEDGE OF ROLLING STOCK**

After completing specific training on rolling stock, drivers must be able to carry out the following tasks.

#### **1. TESTS AND CHECKS PRIOR TO DEPARTURE**

Drivers must be able to:

- perform a route check and consult the relevant documents,
- collect the documentation and the necessary equipment,
- check the capacities of the traction unit,
- check the information entered in the documents on board the traction unit,
- ensure, by performing the checks and tests specified, that the traction unit is capable of providing the required traction power, and that the safety equipment is operating,
- perform any routine preventive maintenance operations.

#### **2. KNOWLEDGE OF ROLLING STOCK**

To operate a locomotive, drivers must be familiar with all the controls and indicators placed at their disposal, in particular those concerning:

- traction,
- braking,
- traffic safety-related elements.

In order to detect and locate anomalies in the rolling stock, report them and determine what is required to repair them, and in certain cases, to take action, drivers must be familiar with:<sup>32</sup>

- the constituent parts of the rolling stock, their purpose, and the devices specific to the hauled stocks, in particular the system of stopping the train by venting the brake pipe,
- the meaning of markings on the inside and outside of the rolling stock, in particular the symbols used for the transportation of dangerous goods,
- the parts specific to traction units.<sup>33</sup>

### **3. TESTING THE BRAKES**

Drivers must be able to:

- check, before departure, that the train's actual braking power corresponds to the braking power required for the line as specified in the vehicle documents,
- check the functioning of the traction unit's brakes before departure, at start-up and during running.

### **4. OPERATING MODE AND MAXIMUM SPEED OF THE TRAIN IN RELATION TO THE LINE CHARACTERISTICS**

Drivers must be able to:

- take note of information given to them before departure,
- determine the type of running and the maximum speed of the train on the basis of variables such as speed limits or any signalling changes.

### **5. DRIVING THE TRAIN IN A WAY WHICH DOES NOT DAMAGE INSTALLATIONS OR VEHICLES**

Drivers must be able to:

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<sup>32</sup> In particular:

- mechanical structures
- braking system
- suspension and attachment equipment
- running gear
- safety equipment.

<sup>33</sup> In particular:

- collection of current and high-voltage systems
- fuel tanks, fuel supply system, exhaust equipment
- traction chain, motors and transmission
- communication equipment (ground-to-train radio, etc.).

- use all available control systems in accordance with the applicable rules,
- start the train taking account of adhesion and power constraints,
- know the train's position on the line at all times,
- apply the brakes for decelerations and stops, taking account of the rolling stock and installations.

## **6. ANOMALIES**

Drivers must be able to:

- be attentive to unusual occurrences concerning the behaviour of the train,
- identify signs of anomalies, distinguish between them and react according to their relative importance, always giving priority to the safety of rail traffic and persons,
- know the available means of protection and communication,
- inspect the train to detect any minor anomalies,
- try to remedy such anomalies.

## **7. OPERATING INCIDENTS AND ACCIDENTS, FIRES AND ACCIDENTS INVOLVING PERSONS**

Drivers must be able to:

- take steps to protect the train and summon assistance in the event of an accident involving persons on board the train,
- determine whether the train is transporting dangerous goods and identify them on the basis of train documents and wagon lists.

## **8. CONDITIONS FOR CONTINUING RUNNING AFTER AN ACCIDENT INVOLVING ROLLING STOCK**

After an incident, drivers must be able to:

- decide if the vehicle can continue to run and under what conditions,
- inform the infrastructure manager of those conditions as soon as possible.

## **9. IMMOBILISATION OF THE TRAIN**

Drivers must be able to take measures to ensure that the train does not start up unexpectedly, even in the most difficult conditions.

## **ANNEXE VII**

### **EXAMINATION OF PROFESSIONAL KNOWLEDGE OF INFRASTRUCTURE**

#### **Matters relating to infrastructure**

##### **1. TESTING THE BRAKES**

Drivers must be able to check, before departure, that the train's actual braking power corresponds to the braking power required for the line as specified in the vehicle documents.

##### **2. TYPE OF OPERATION AND MAXIMUM TRAIN SPEED ACCORDING TO THE LINE CHARACTERISTICS**

Drivers must be able to:

- take note of information given to them before departure, such as the speed limits or any signalling changes;
- determine the type of running and the maximum speed of the train on the basis of the characteristics of the line.

##### **3. KNOWLEDGE OF THE LINE**

Drivers must be able to anticipate problems and react appropriately in terms of safety and performance. They must therefore have a thorough knowledge of the railway lines and installations on their route and of any equivalent routes agreed on.

The following aspects are important:

- operational conditions (changes of track, one-way running, etc.),
- identification of tracks that can be used for a given type of running,
- the operations regime,
- the block system and associated regulations,
- station names and the position and distance-sighting of stations and signal boxes to adapt driving accordingly,
- transition signalling between different operating or power supply systems,
- speed limits for the different train categories driven,
- topographical profiles,
- particular braking conditions, for example on lines with a steep downward gradient,

- particular operating features: special signals, signs, departure conditions, etc.

#### **4. SAFETY REGULATIONS**

- Drivers must be able to:
- start the train only when all prescribed conditions are fulfilled (timetable, start order or signal, operation of signals if required, etc.),
- observe track-side or in-cab signals, interpret them immediately and without error, and act as specified,
- run the train safely according to the specific modes of operation: apply special modes if instructed, temporary speed restrictions, running in opposite direction, permission to overrun signals at danger, switching operations, turns, running through construction sites, etc
- respect scheduled or supplementary stops, and if necessary perform supplementary operations for passengers during these stops, notably opening and closing the doors.

#### **5. DRIVING THE TRAIN**

- Drivers must:
- know the train's position on the line at all times,
- apply the brakes for decelerations and stops, taking account of the rolling stock and installations,
- adjust the running of the train in accordance with the timetable and any orders given on saving energy, taking account of the characteristics of the traction unit, the train, the line and the environment.

#### **6. ANOMALIES**

Drivers must be able to:

- be attentive, insofar as train operation permits, to unusual occurrences concerning the infrastructure and the environment: signals, tracks, energy supply, level crossings, track surrounding, other traffic,
- be attentive to unusual occurrences concerning the behaviour of the train,
- know particular distances to clear obstacles,
- inform the infrastructure manager as soon as possible of the place and nature of anomalies observed, making sure that the information has been understood,
- ensure or take measures to ensure the safety of traffic and persons, whenever necessary.

**7. OPERATING INCIDENTS AND ACCIDENTS, FIRES AND ACCIDENTS INVOLVING PERSONS**

Drivers must be able to:

- take steps to protect the train and summon assistance in the event of an accident involving persons,
- determine where to stop the train in the event of a fire and facilitate the evacuation of passengers, if necessary,
- provide useful information on the fire as soon as possible if the fire cannot be brought under control by the driver acting alone,
- after an incident, decide if the rolling stock can continue to run and under which conditions,
- inform the infrastructure manager of these conditions as soon as possible.

## IMPACT ASSESSMENT FORM

### **THE IMPACT OF THE PROPOSAL ON BUSINESS, WITH PARTICULAR REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)**

#### **TITLE OF THE PROPOSAL**

Directive concerning the certification of train crews operating locomotives and trains on the Community's rail network.

#### **DOCUMENT REFERENCE NUMBER**

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#### **THE PROPOSAL**

1. *Taking account of the principle of subsidiarity, why is Community legislation necessary in this area and what are its main aims?*

The proposed Directive seeks to establish a common regulatory framework for the certification of train crew on board locomotives and trains carrying passengers and freight. It will facilitate the interoperability of driving personnel, thus increasing international rail traffic, and maintaining or even improving safety levels and guaranteeing the performance standards of driving personnel by ensuring and checking the skills required for the relevant European networks used. It will also help to make the methods used for managing drivers involved in interoperability more effective for railway companies and to reduce the risk of social dumping.

#### **THE IMPACT ON BUSINESS**

2. *Who will be affected by the proposal?*

- *Which sectors of business?*

This proposal is chiefly aimed at railway undertakings and the competent authorities of the Member States. Infrastructure managers are also affected, but to a lesser extent. As indicated in Chapter 7 of the explanatory memorandum, the overall economic impact of the proposal is favourable in terms of costs and benefits. For most railway undertakings, it will not normally entail any additional financial burden. Furthermore, by establishing a common framework for the certification of train crews, the proposal will improve the transparency of the certification procedure, which is now an integral part of the internal management of train crews, in order to increase their interoperability and to facilitate the process of certifying the undertakings themselves.

- *Which sizes of business (what is the concentration of small and medium-sized firms)?*

While traditional operators are still dominating the industry, more and more small and medium-sized enterprises are emerging thanks to the opening up of the rail freight market. This proposal is likely to facilitate the entry into the market of such undertakings, which are capable of carrying out seamless cross-border services and are thus competitive with road hauliers.

- *Are there particular geographical areas of the Community where these businesses are found?*

Railway undertakings exist in all the Member States.

### 3. *What will business have to do to comply with the proposal?*

Once the Directive has been transposed into national law, the immediate impact of the proposed legislation will be to transfer part of the crew training/certification tasks to the competent authorities and to accredited training centres. Where applicable, they will have to have occupational physicians, trainers and examiners accredited by the competent authority. They will have to work together with the competent authority to set up registers. This transfer will be positive for undertakings, enabling them to focus more on commercial activities.

### 4. *What economic effects is the proposal likely to have?*

Chapter 7 of the explanatory memorandum gives details of the economic impact of this proposal in terms of overall costs and advantages.

- *On employment?*

Revitalising the industry will lead to increased competition within the sector and to more profitable transport solutions which may lead to a reduction in the number of jobs. Thanks to increased competitiveness, however, the railways ought to be able to increase their market share in comparison with other modes and expand considerably, which will lead to growth in the number of stable, appealing jobs in the rail sector. This proposal will make the hidden part of the iceberg more visible and will add value to the profession of train driver. It will lead to greater flexibility in the employment market and, as a result, will reduce the social costs accompanying business conversion.

- *On investment and the creation of new businesses?*

A more competitive rail system which covers the Community market instead of being confined mainly to national markets will offer new commercial outlets and boost investment. The proposal should facilitate the creation of new businesses by reducing legal uncertainty and through the mechanisms for accrediting training centres and examiners.

- *On the competitiveness of businesses?*

The proposal will cut the costs of the training and certification of drivers operating cross-border services, resulting in higher revenue for railway undertakings and thus greater capacity to win market shares compared with road hauliers. Small and medium-sized railway undertakings are particularly likely to benefit from improved accessibility to training centres and from the greater mobility of drivers.

In addition, further systematic risk management is a crucial factor in an industry where accidents have disastrous consequences for human lives and the activities of companies.

5. *Does the proposal contain measures to take account of the specific situation of small and medium-sized firms (reduced or different requirements, etc.)?*

In accordance with the principle of subsidiarity, Member States may decide which tasks are to be given to a competent authority and which are to be delegated to railway undertakings. They may therefore introduce measures aimed at taking account of the specific situation of small and medium-sized enterprises.

## **CONSULTATION**

6. *List the organisations which have been consulted about the proposal and outline their main views.*

As stated in the explanatory memorandum, the proposal was preceded by a study.

The Commission consulted interested parties on the basis of a consultation document published on the Europa website on 2 July 2003,. This document was presented to all representatives of the industry, including infrastructure managers, railway undertakings, the social partners and service companies, at a hearing organised by the Commission on 16 July 2003.

The document aroused considerable interest, with about 30 official reactions being received and published on the Europa website between 15 August and 30 October 2003<sup>34</sup>. The principle of a legislative proposal to establish Community rules for the certification of train drivers was welcomed. However, the importance of assessing the economic impact of such a proposal was emphasised. At the same time, many comments were made on the details of the mechanisms proposed and on the minimum requirements to be checked, and the Commission drew on these to a large extent in drafting its proposal.

The Commission also discussed the basic principles of this proposal with safety experts, including representatives of safety authorities, ministries, infrastructure managers and railway undertakings, the International Union of Railways (IUR) and the International Liaison Group of Government Railway Inspectorates (ILGGRI). The Commission presented the key elements of the proposal to the regulatory committee set up under Article 21 of Directives 96/48/EC and 2001/16/EC on the interoperability of the trans-European railway system, and also to other groups.

More recently, the European Rail Community (ERC) and the European Transport Workers' Federation (ETF) came to an agreement on the European licence for drivers carrying out cross-border interoperability services. As explained in Chapter 2 of the explanatory memorandum, the Commission drew heavily on this agreement.

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See the reactions published on EUROPA (Internet address:  
[http://europa.eu.int/comm/transport/rail/package2003/reaction\\_en.htm](http://europa.eu.int/comm/transport/rail/package2003/reaction_en.htm))