

Position Paper

4th Railway Package

Proposal on the safety of the rail system within the EU

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Position as of 27th September 2013

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Scope of Application

Article 2 Scope

The proposed Safety Directive applies to the rail system in the Member States. It covers safety requirements on the system as a whole and is applied to the entire system excluding those defined in Article 2 (2). EIM proposes to have additional scenarios where the Safety Directive does not have to be applied.

The risk can be in situations where rolling stock has lost its authorisation and needs to be transported safely to a terminal or site to be re-authorised. With the current wording this could result in the rolling stock in question to be transported by other methods such as on heavy goods vehicles to the site of re-authorisation. This issue would cause significant and unnecessary challenges for parties involved without added value.

EIM Proposal:

EIM proposes that in these situations it should be allowed to move rolling stock without valid authorisation using the railway system to the authorisation site.

Delegated Acts

Article 5, 7, 26

Delegated acts limit the opportunity from MSs to have a scrutiny on the proposed legislation. EIM states that it is essential for the Committee Procedure (the Railway Interoperability and Safety Committee - RISC) to be included when addressing legislation affecting rail system.

Common Safety Indicators (CSI), Common Safety Methods (CSM) and Common Safety Targets (CST) are essential elements of basic acts. People responsible for these issues in relevant MSs cannot be held responsible for achieving (for example) certain safety targets if they are set by delegated acts.

EIM Proposal:

EIM recommends that the Directive, when referencing to delegated acts, would be readdressed as implementing acts.

Single Safety Certificate

Article 10, 11

EIM Position as of 27th September 2013

EIM welcomes the introduction of the Single Safety Certificate (SSC). The SCC will abolish Safety Certificates parts A and B.

EIM sees that Member States (MS) which have a fast, non-discriminatory, safe and transparent process established for approvals by NSAs would benefit from an option where the applicant would have the right to choose between ERA and NSA for the SSC on the condition, that traffic takes place only in that MS. For cross border traffic ERA shall be the point of contact for SSC.

Close attention must be paid in situations where the SSC is intended for operation in more than one MS. Local operational rules, technical characteristics of the system and language questions have to be addressed carefully by the relevant National Safety Authorities (NSA) and European Railway Agency (ERA).

Furthermore, EIM is concerned with the human resources of ERA and the possible critical knowledge gap regarding local systems and conditions to carry out the tasks related to SSC. Forming a system wide view that takes into account the different actors, for example the electrical compatibility of different locomotives, requires experience and knowledge only established over time. This speaks further in favour of allowing the applicant to have the option to apply either the NSA or ERA in cases where the traffic takes place in one MS. This scenario could address the constraints of ERA.

Degraded modes are situations where one or more (technical) barriers that can affect safety are not functioning as it is intended. Such a situation would occur, for example when a component breaks down in a train, which would result in requiring assistance from another train. In these situations operational rules play a key factor for the safe management of the degraded mode situation.

When granting the Single Safety Certificate, preparedness of an RU to manage degraded modes has to be assessed by the authorising entity. This should also be reflected in the Safety Directive.

EIM Proposal:

EIM supports ERA becoming over a gradual transmission period the central coordinator for activities related to SSC. Care should however be given that the natural link between the certification assessment and the later supervisory activities do not get lost. Therefore, the necessary coordination between the Agency and the NSAs needs to be detailed and roles and responsibilities to be clearly defined.

There shall be a transitional period with defined steps and evaluation of those achievements.

The opportunity of giving the applicant the option to choose between ERA and NSA regarding the SSC has the potential to speed up the process in some cases and reduce ERA work load in others. This in turn could also allow ERA to concentrate on those areas where barriers have to be removed to permit entry onto the market.

EIM proposes that the European Railway Agency (ERA) could consider supporting secondments to and from relevant MSs (NSAs) in order to facilitate the development of ERA into a truly central European railway authority by exchanging knowledge.

Under the proposed regulation, NSAs shall ask the Agency to revoke the SSC if the holder no longer satisfies the requirements for it (*Article 10(6)*). The Agency in turn is expected to inform the relevant NSA within one month on the issuing, renewal, amending or revocation of the SSC (*Article 10(7)*). The recommendation of EIM is that these actions have to be communicated immediately to the relevant parties. IM must know immediately if an RU operating on its network is subjected of having its SSC revoked. All relevant information regarding decisions affecting RUs SSC has to be brought to the knowledge of the IM without delay.

EIM proposes that degraded modes and managing them are introduced into the Safety Directive. These should be mentioned in the article regarding safety management system (SMS, *Article 9*).

This is the position of EIM according to the current understanding of the available information as of today regarding the SSC.

Duration of the Application Process for SSC and Safety Authorisation of Infrastructure Managers

Article 11, 12

Process for applying for single safety certificate and safety authorisation of infrastructure manager shall take place in a defined time period. In case further information is required by the Agency and/or national safety authority it is not clear what time limits are applied after additional information is provided.

EIM Proposal:

The Agency or NSA shall only be able to ask for additional information regarding the application for one month after its receipt. This then provides three months to establish the final decision whilst respecting the four month time frame set for the process.

This is the position of EIM according to the current understanding of the available information as of today regarding the SSC.

Accident Investigation

Article 23, 24

EIM views accident investigation as a process whose results has to be shared openly and immediately by ERA in order to have “lessons learned” spread across the European Union. This is viewed by EIM to have a beneficial effect on improving safety across the sector.

EIM Proposal:

EIM proposes that into the article 24 of the Safety Directive it is added the right for the Agency to publish investigation recommendations provided to it. EIM sees ERA as the natural point for sharing best practices and lessons learned for enhancing safety.

There should not be additional accident investigating bodies.

National Rules

Article 8

Creation of national rules in the proposed Safety Directive is limited to incidents where rules concerning existing safety methods are not covered by a CSM and as an urgent preventative measure for a limited period of the time, in particular following an accident or findings from an accident investigation body. EIM proposes that new national rules could be created in cases where they are required to maintain or improve the current national safety level.

Member States are also required to make sure national rules are made available free of charge in a language that can be understood by all parties concerned. Translating relevant national rules correctly into (possibly) multiple languages can introduce itself safety risks due to possibly incorrect translation of technical details. In addition translation costs can be significant.

EIM is also concerned with the Directives definition of National Rules that can only refer to open points in TSIs and CSMs as it is not categorically certain whether the current scope of the TSI Operation and Traffic Management (TSI OPE) can address this issue. A considerable number of existing operational rules and arrangements between IMs and RUs (that are indispensable to maintain a functioning system) will remain without a legal platform to be put forward.

EIM Proposal:

Directive should allow the option of creating new national rules when they would maintain or improve the current national safety levels.

EIM proposes that national rules are put available free of charge in at least one official language of the European Union.

EIM proposes that the Agency should create a work stream to solve the future situation of no legal frame work existing for TSI OPE issues.