

Council Directive 96/48/EC of 23 July 1996 on the interoperability  
of the trans-European high-speed rail system (repealed)

CHAPTER III

**Interoperability constituents**

*Article 12*

1 Where a Member State confirms that an interoperability constituent covered by the EC declaration of conformity or suitability for use, and placed on the market is likely, when used as intended, not to meet the essential requirements, it shall take all necessary steps to restrict its area of application, prohibit its use or withdraw it from the market. That Member State shall forthwith inform the Commission of the measures taken and shall give the reasons for its decision, stating in particular whether the failure to conform is due to:

- failure to meet the essential requirements;
- incorrect application of the European specifications where application of the specifications is invoked;
- inadequacy of the European specifications.

2 The Commission shall consult the parties concerned as quickly as possible. Where, following that consultation, the Commission establishes that the measure is justified, it shall forthwith so inform the Member State that has taken the initiative and the other Member States. Where, following that consultation, the Commission establishes that the measure is unjustified, it shall forthwith so inform the Member State that has taken the initiative and the manufacturer or his authorized representative established within the Community. Where the decision referred to in paragraph 1 is justified by the existence of a gap in the European specifications, the procedure defined in Article 11 shall apply.

3 Where an interoperability constituent bearing the EC declaration of conformity fails to comply, the competent Member State shall take the appropriate measures against whomsoever has drawn up the declaration and shall inform the Commission and the other Member States thereof.

4 The Commission shall ensure that the Member States are kept informed of the progress and the results of that procedure.