

Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001 /14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (repealed)

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Purpose

The purpose of this Directive is to ensure the development and improvement of safety on the Community's railways and improved access to the market for rail transport services by:

- (a) harmonising the regulatory structure in the Member States;
- (b) defining responsibilities between the actors;
- (c) developing common safety targets and common safety methods with a view to greater harmonisation of national rules;
- (d) requiring the establishment, in every Member State, of a safety authority and an accident and incident investigating body;
- (e) defining common principles for the management, regulation and supervision of railway safety.

Article 2

Scope

1 This Directive applies to the railway system in the Member States, which may be broken down into subsystems for structural and operational areas. It covers safety requirements on the system as a whole, including the safe management of infrastructure and of traffic operation and the interaction between railway undertakings and infrastructure managers.

2 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 functionally separate from the rest of the railway system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks;
- c privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

Article 3

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (a) "railway system" means the totality of the subsystems for structural and operational areas, as defined in Directives 96/48/EC and 2001/16/EC, as well as the management and operation of the system as a whole;
- (b) "infrastructure manager" means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or a part thereof, as defined in Article 3 of Directive 91/440/EEC, which may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or part of a network may be allocated to different bodies or undertakings;
- (c) "railway undertaking" means railway undertaking as defined in Directive 2001/14/EC, and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction; this also includes undertakings which provide traction only;
- (d) "technical specification for interoperability (TSI)" means the specifications by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the trans-European high-speed and conventional rail systems as defined in Directive 96/48/EC and Directive 2001/16/EC;
- (e) "common safety targets (CSTs)" means the safety levels that must at least be reached by different parts of the rail system (such as the conventional rail system, the high speed rail system, long railway tunnels or lines solely used for freight transport) and by the system as a whole, expressed in risk acceptance criteria;
- (f) "common safety methods (CSMs)" means the methods to be developed to describe how safety levels and achievement of safety targets and compliance with other safety requirements are assessed;
- (g) "safety authority" means the national body entrusted with the tasks regarding railway safety in accordance with this Directive or any binational body entrusted by Member States with these tasks in order to ensure a unified safety regime for specialised cross-border infrastructures;
- (h) "national safety rules" means all rules containing railway safety requirements imposed at Member State level and applicable to more than one railway undertaking, irrespective of the body issuing them;
- (i) "safety management system" means the organisation and arrangements established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;
- (j) "investigator-in-charge" means a person responsible for the organisation, conduct and control of an investigation;
- (k) "accident" means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following

categories: collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others;

- (l) "serious accident" means any train collision or derailment of trains, resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment, and any other similar accident with an obvious impact on railway safety regulation or the management of safety; "extensive damage" means damage that can immediately be assessed by the investigating body to cost at least EUR 2 million in total;
- (m) "incident" means any occurrence, other than accident or serious accident, associated with the operation of trains and affecting the safety of operation;
- (n) "investigation" means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations;
- (o) "causes" means actions, omissions, events or conditions, or a combination thereof, which led to the accident or incident;
- (p) "Agency" means the European Railway Agency, the Community agency for railway safety and interoperability;
- (q) "notified bodies" means the bodies which are responsible for assessing the conformity or suitability for use of the interoperability constituents or for appraising the EC procedure for verification of the subsystems, as defined in Directives 96/48/EC and 2001/16/EC;
- (r) "interoperability constituents" means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem upon which the interoperability of the high-speed or conventional rail system depends directly or indirectly, as defined in Directive 96/48/EC and 2001/16/EC. The concept of a "constituent" covers both tangible objects and intangible objects such as software.