

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and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (repealed)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 III

SAFETY CERTIFICATION AND AUTHORISATION

Article 10

Safety certificates

1 In order to be granted access to the railway infrastructure, a railway undertaking must hold a safety certificate as provided for in this Chapter. The safety certificate may cover the whole railway network of a Member State or only a defined part thereof.

The purpose of the safety certificate is to provide evidence that the railway undertaking has established its safety management system and can meet requirements laid down in TSIs and other relevant Community legislation and in national safety rules in order to control risks and operate safely on the network.

2 The safety certificate shall comprise:

- a certification confirming acceptance of the railway undertaking's safety management system as described in Article 9 and Annex III, and
- b certification confirming acceptance of the provisions adopted by the railway undertaking to meet specific requirements necessary for the safe operation of the relevant network. The requirements may include application of TSIs and national safety rules, acceptance of staff's certificates and authorisation to place in service the rolling stock used by the railway undertaking. The certification shall be based on documentation submitted by the railway undertaking as described in Annex IV.

3 The safety authority in the Member State where the railway undertaking first establishes its operation shall grant the certification in accordance with paragraph 2.

The certification granted in accordance with paragraph 2 must specify the type and extent of the railway operations covered. The certification granted in accordance with paragraph 2(a) shall be valid throughout the Community for equivalent rail transport operations.

4 The safety authority in the Member State in which the railway undertaking is planning to operate additional rail transport services shall grant the additional national certification necessary in accordance with paragraph 2(b).

5 The safety certificate shall be renewed upon application by the railway undertaking at intervals not exceeding five years. It shall be wholly or partly updated whenever the type or extent of the operation is substantially altered.

The holder of the safety certificate shall without delay inform the competent safety authority of all major changes in the conditions of the relevant part of the safety

certificate. It shall furthermore notify the competent safety authority whenever new categories of staff or new types of rolling stock are introduced.

The safety authority may require that the relevant part of the safety certificate be revised following substantial changes in the safety regulatory framework.

If the safety authority finds that the holder of the safety certificate no longer satisfies the conditions for a certification which it has issued, it shall revoke part (a) and/or (b) of the certificate, giving reasons for its decision. The safety authority that has revoked an additional national certification granted in accordance with paragraph 4 shall promptly inform the safety authority that granted the certification under paragraph 2(a) of its decision

Similarly, a safety authority must revoke a safety certificate if it is apparent that the holder of the safety certificate has not used it as intended in the year following its issue.

6 The safety authority shall inform the Agency within one month of the safety certificates referred to in paragraph 2(a) that have been issued, renewed, amended or revoked. It shall state the name and address of the railway undertaking, the issue date, scope and validity of the safety certificate and, in case of revocation, the reasons for its decision.

7 Before...⁽¹⁾ the Agency shall evaluate the development of safety certification and submit a report to the Commission with recommendations on a strategy for migration towards a single Community safety certificate. The Commission shall take appropriate action following the recommendation.

Article 11

Safety authorisation of infrastructure managers

1 In order to be allowed to manage and operate a rail infrastructure the infrastructure manager must obtain a safety authorisation from the safety authority in the Member State where he is established.

The safety authorisation shall comprise:

- a authorisation confirming acceptance of the infrastructure manager's safety management system as described in Article 9 and Annex III, and
- b authorisation confirming acceptance of the provisions of the infrastructure manager to meet specific requirements necessary for the safe design, maintenance and operation of the railway infrastructure including, where appropriate, the maintenance and operation of the traffic control and signalling system.

2 The safety authorisation shall be renewed upon application by the infrastructure manager at intervals not exceeding five years. It shall be wholly or partly updated whenever substantial changes are made to the infrastructure, signalling or energy supply or to the principles of its operation and maintenance. The holder of the safety authorisation shall without delay inform the safety authority of all such changes.

The safety authority may require that the safety authorisation be revised following substantial changes to the safety regulatory framework.

If the safety authority finds that an authorised infrastructure manager no longer satisfies the conditions for a safety authorisation it shall revoke the authorisation, giving reasons for its decisions.

3 The safety authority shall inform the Agency within one month of the safety authorisations that have been issued, renewed, amended or revoked. It shall state the name and address of the infrastructure manager, the issue date, the scope and validity of the safety authorisation and, in case of revocation, the reasons for its decision.

Article 12

Application requirements relating to safety certification and safety authorisation

1 The safety authority shall take a decision on an application for safety certification or safety authorisation without delay and in any event not more than four months after all information required and any supplementary information requested by the safety authority has been submitted. If the applicant is requested to submit supplementary information, such information shall be submitted promptly.

2 In order to facilitate the establishment of new railway undertakings and the submission of applications from railway undertakings from other Member States, the safety authority shall give detailed guidance on how to obtain the safety certificate. It shall list all requirements that have been laid down for the purpose of Article 10(2) and make all relevant documents available to the applicant.

Special guidance shall be given to railway undertakings that apply for a safety certificate concerning services on a defined limited part of an infrastructure, specifically identifying the rules that are valid for the part in question.

3 An application guidance document describing and explaining the requirements for the safety certificates and listing the documents that must be submitted shall be made available to the applicants free of charge. All applications for safety certificates shall be submitted in the language required by the safety authority.

Article 13

Access to training facilities

1 Member States shall ensure that railway undertakings applying for a safety certificate have fair and non-discriminatory access to training facilities for train drivers and staff accompanying the trains, whenever such training is necessary for the fulfilment of requirements to obtain the safety certificate.

The services offered must include training on necessary route knowledge, operating rules and procedures, the signalling and control command system and emergency procedures applied on the routes operated.

Member States shall also ensure that infrastructure managers and their staff performing vital safety tasks have fair and non-discriminatory access to training facilities.

If the training services do not include examinations and granting of certificates, Member States shall ensure that railway undertakings have access to such certification if it is a requirement of the safety certificate.

The safety authority shall ensure that the provision of training services or, where appropriate, the granting of certificates meets the safety requirements laid down in TSIs or national safety rules described in Article 8 and Annex II.

2 If the training facilities are available only through the services of one single railway undertaking or the infrastructure manager, Member States shall ensure that they are made available to other railway undertakings at a reasonable and non-discriminatory price, which is cost-related and may include a profit, margin.

3 When recruiting new train drivers, staff on board trains and staff performing vital safety tasks, railway undertakings must be able to take into account any training, qualifications and experience acquired previously from other railway undertakings. For this purpose, such members of staff shall be entitled to have access to, obtain copies and communicate all documents attesting to their training, qualifications and experience.

4 In every case each railway undertaking and each infrastructure manager shall be responsible for the level of training and qualifications of its staff carrying out safety-related work as set out in Article 9 and Annex III.

Article 14

Placing in service of in-use rolling stock

1 Rolling stock that has been authorised to be placed in service in one Member State in accordance with Article 10(2)(b) and is not fully covered by the relevant TSIs shall be authorised to be placed in service in another or other Member States in accordance with this Article, if an authorisation is required by the latter Member State or States.

2 The railway undertaking applying for authorisation to place rolling stock in service in another Member State shall submit a technical file concerning the rolling stock or type of rolling stock to the relevant safety authority, indicating its intended use on the network. The file shall contain the following information:

- a evidence that the rolling stock has been authorised to be placed in service in another Member State and records that show its history of operation, maintenance and, where applicable, technical modifications undertaken after the authorisation;
- b relevant technical data, maintenance programme and operational characteristics requested by the safety authority and needed for its complementary authorisation;
- c evidence on technical and operational characteristics that shows that the rolling stock is in compliance with the energy supply system, the signalling and control command system, the track gauge and infrastructure gauges, the maximum allowed axle load and other constraints of the network;
- d information on exemptions from national safety rules that are needed to grant authorisation and evidence, based on risk assessment, showing that the acceptance of the rolling stock does not introduce undue risks to the network.

3 The safety authority may request that test runs on the network be undertaken to verify compliance with the restrictive parameters referred to in paragraph 2(c) and shall in that case prescribe their range and content.

4 The safety authority shall adopt its decision on an application in accordance with this Article without delay and not later than four months after the complete technical file, including documentation of the test runs, has been submitted. The certificate of authorisation may contain conditions for use and other restrictions.

Article 15

Harmonisation of safety certificates

1 Before...⁽²⁾, decisions on common harmonised requirements in accordance with Article 10(2)(b) and Annex IV and a common format for application guidance documents shall be adopted in accordance with the procedure referred to in Article 27(2).

2 The Agency shall recommend common harmonised requirements and a common format for application guidance documents under a mandate which shall be adopted in accordance with the procedure referred to in Article 27(2).

Status: This is the original version (as it was originally adopted).

- (1) Five years after the entry into force of this Directive.
- (2) Five years after entry into force of this Directive.