

Directive 2008/57/EC of the European Parliament and of the Council
of 17 June 2008 on the interoperability of the rail system within
the Community (Recast) (Text with EEA relevance) (repealed)

DIRECTIVE 2008/57/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 17 June 2008

on the interoperability of the rail system within the Community

(Recast)

(Text with EEA relevance) (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles
71 and 156 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system⁽³⁾ 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⁽⁴⁾ were substantially amended by Directive 2004/50/EC of the European Parliament and of the Council⁽⁵⁾. As new amendments are now being introduced, it is appropriate to recast the Directives for the sake of clarity and merge their provisions together into a single instrument with a view to simplification.
- (2) In order to enable citizens of the Union, economic operators and regional and local authorities to benefit to the full from the advantages deriving from the establishing of an area without internal frontiers, it is appropriate, in particular, to improve the interlinking and interoperability of the national rail networks as well as access thereto, implementing any measures that may prove necessary in the field of technical standardisation, as provided for in Article 155 of the Treaty.
- (3) By signing the Protocol adopted in Kyoto on 12 December 1997 the European Union has undertaken to reduce its greenhouse gas emissions. These objectives require an adjustment to the balance between the various modes of transport, and consequently an increase in the competitiveness of rail transport.

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- (4) The Community strategy for the integration of environmental and sustainable development concerns into its transport policy highlights the need to act to reduce the environmental impact of transport.
- (5) The commercial operation of trains throughout the rail network requires in particular excellent compatibility between the characteristics of the infrastructure and those of the vehicles, as well as efficient interconnection of the information and communication systems of the different infrastructure managers and railway undertakings. Performance levels, safety, quality of service and cost depend upon such compatibility and interconnection, as does, in particular, the interoperability of the rail system.
- (6) Member States are responsible for ensuring compliance with the safety, health and consumer protection rules applying to the railway networks in general during the design, construction, putting into service and operation of those railways.
- (7) There are major differences between the national regulations and between internal rules and technical specifications which the railways apply, since they incorporate techniques that are specific to the national industries and prescribe specific dimensions and devices and special characteristics. This situation prevents trains from being able to run without hindrance throughout the Community network.
- (8) Over the years, this situation has created very close links between the national railway industries and the national railways, to the detriment of the genuine opening-up of markets. In order to enhance their competitiveness at world level, these industries require an open, competitive European market.
- (9) It is therefore appropriate to define basic essential requirements for the whole of the Community which will apply to its rail system.
- (10) To achieve these objectives an initial measure was taken by the Council on 23 July 1996 with the adoption of Directive 96/48/EC. The European Parliament and the Council subsequently adopted Directive 2001/16/EC.
- (11) The entry into force of 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⁽⁶⁾, 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⁽⁷⁾ 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⁽⁸⁾ has had an impact on the implementation of interoperability. As in the case of other transport modes, the extension of access rights must be accompanied by the requisite harmonisation measures. It is therefore necessary to implement interoperability on the whole network by extending progressively the geographical scope of Directive 2001/16/EC. It is also necessary to extend the legal basis of Directive 2001/16/EC to Article 71 of the Treaty, on which Directive 2001/12/EC is founded.
- (12) The development of technical specifications for interoperability (TSIs) has shown the need to clarify the relationship between the essential requirements and the TSIs on the

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one hand, and the European standards and other documents of a normative nature on the other. In particular, a clear distinction should be drawn between the standards or parts of standards which must be made mandatory in order to achieve the objectives of this Directive, and the ‘harmonised’ standards that have been developed in the spirit of the new approach to technical harmonisation and standardisation.

- (13) As a rule, European specifications are developed in the spirit of the new approach to technical harmonisation and standardisation. They enable a presumption to be made of conformity with certain essential requirements of this Directive, particularly in the case of interoperability constituents and interfaces. These European specifications, or the applicable parts thereof, are not mandatory and no explicit reference to these specifications may be made in the TSIs. References to these European specifications are published in the *Official Journal of the European Union*, and Member States publish the references to the national standards transposing the European standards.
- (14) TSIs may in certain cases make an explicit reference to European standards or specifications where this is strictly necessary in order to achieve the objectives of this Directive. Such explicit reference has consequences which must be made clear; in particular, these European standards or specifications become mandatory from the moment the TSI is applicable.
- (15) A TSI sets all the conditions with which an interoperability constituent must conform, and the procedure to be followed in assessing conformity. In addition, it is necessary to specify that every constituent must undergo the procedure for assessing conformity and suitability for the use indicated in the TSIs, and have the corresponding certificate.
- (16) When developing new TSIs the aim should always be to ensure compatibility with the existing authorised system. This will help to promote the competitiveness of rail transport and prevent unnecessary additional costs through the requirement of upgrading or renewal of existing authorised subsystems to ensure backward compatibility. In those exceptional cases where it will not be possible to ensure compatibility, TSIs may establish the framework necessary to decide whether the existing subsystem may need to be re-authorised, and the corresponding deadlines.
- (17) It is necessary for safety reasons to require Member States to assign an identification code to each vehicle placed in service. The vehicle should then be entered in a national vehicle register. The registers must be open to consultation by all Member States and by certain Community economic players. The registers should be consistent as regards the data format. They should therefore be covered by common operational and technical specifications.
- (18) The procedure to be followed in the case of essential requirements applicable to a subsystem which have not yet been covered by detailed specifications in the corresponding TSI should be specified. In such case, the bodies responsible for the conformity assessment and verification procedures should be the notified bodies referred to in Article 20 of Directives 96/48/EC and 2001/16/EC.
- (19) The distinction between a high-speed rail system and a conventional rail system does not warrant two separate directives. The procedures for developing TSIs are the same for

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both systems, as are those for the certification of the interoperability constituents and the subsystems. The essential requirements are practically identical, as is the subdivision of the system into subsystems for which technical specifications have to be prepared. Moreover, since trains have to be able to move freely from the high-speed network to the conventional network, the technical specifications for the two systems overlap to a large extent. Work on developing the TSIs has shown that, for certain subsystems, a single TSI can serve both systems. It is therefore appropriate to combine Directives 96/48/EC and 2001/16/EC.

- (20) Directive 2004/50/EC provided for the progressive extension of the scope of Directive 2001/16/EC as new TSIs were adopted or existing ones revised. When this Directive enters into force, its scope will cover conventional and high-speed European networks as defined in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network⁽⁹⁾, and the vehicles likely to travel on those networks. The scope will be progressively extended to the whole network and all vehicles, provided that an impact assessment shows the economic benefit of so doing.
- (21) In view of the gradual approach to eliminating obstacles to the interoperability of the rail system and of the time consequently required for the adoption of TSIs, steps should be taken to avoid a situation where Member States adopt new national rules or undertake projects that increase the diversity of the present system.
- (22) The adoption of a gradual approach satisfies the special needs of the objective of the interoperability of the rail system, which is characterised by old national infrastructure and vehicles requiring heavy investment for adaptation or renewal, and particular care should be taken not to penalise rail economically *vis-à-vis* other modes of transport.
- (23) In its Legislative Resolutions of 10 March 1999 on the railway package, the European Parliament asked that the progressive opening up of the rail sector go hand-in-hand with the fastest and most effective technical harmonisation measures possible.
- (24) The Council, at its meeting on 6 October 1999, asked the Commission to propose a strategy on improving the interoperability of rail transport and reducing bottlenecks with a view to eliminating technical, administrative and economic obstacles to the interoperability of networks without delay while guaranteeing a high level of safety and training and qualifications of the staff concerned.
- (25) Pursuant to Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways⁽¹⁰⁾, railway companies must have increased access to Member States' rail networks, which in turn requires the interoperability of infrastructure, equipment, rolling stock and systems of management and operation, including those staff qualifications and hygiene and safety conditions at work required for the operation and maintenance of the subsystems in question and for the implementation of each TSI. However, it is not the aim of this Directive, directly or indirectly, to harmonise working conditions in the rail sector.
- (26) In view of the extent and complexity of the rail system, it has proved necessary, for practical reasons, to break it down into the following subsystems: infrastructure,

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control-command and signalling, energy, rolling stock, operation and traffic management, maintenance and telematics applications for passenger and freight services. For each of these subsystems the essential requirements must be specified and the technical specifications determined for the whole of the Community, particularly in respect of constituents and interfaces, in order to meet these essential requirements. The same system is broken down into fixed and mobile elements comprising on the one hand, the network, composed of the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the system and on the other hand, all vehicles travelling on this network. Therefore, for the purposes of this Directive, a vehicle is composed of one subsystem (rolling stock) and where applicable one or more parts of other subsystems (mainly the onboard part of the control-command and signalling subsystem and the onboard part of the energy subsystem).

- (27) Implementation of the provisions on the interoperability of the rail system should not create unjustified barriers in cost-benefit terms to the preservation of the existing rail network of each Member State, but must endeavour to retain the objective of interoperability.
- (28) TSIs also have an impact on the conditions of use of rail transport by users, and it is therefore necessary to consult these users on aspects concerning them.
- (29) Each Member State concerned should be allowed not to apply certain TSIs in special cases, provided that there are procedures to ensure that these derogations are justified. Article 155 of the Treaty requires Community activities in the field of interoperability to take account of the potential economic viability of projects.
- (30) The drawing up of TSIs and their application to the rail system should not impede technological innovation, which should be directed towards improving economic performance.
- (31) Advantage should be taken of the interoperability of the rail system, particularly in the case of freight, to bring about the conditions for greater interoperability between modes of transport.
- (32) To comply with the appropriate provisions on procurement procedures in the rail sector and in particular Directive 2004/17/EC of the European Parliament and of the Council⁽¹¹⁾, the contracting entities should include technical specifications in the general documents or in the terms and conditions for each contract. To this end it is necessary to build up a body of European specifications in order to serve as references for these technical specifications.
- (33) An international system of standardisation capable of generating standards which are actually used by those involved in international trade and which meet the requirements of Community policy would be in the Community's interest. The European standardisation bodies must therefore continue their cooperation with the international standardisation bodies.
- (34) The contracting entities are to define the further requirements needed to complete European specifications or other standards. These specifications should meet the

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essential requirements that have been harmonised at Community level and which the rail system must satisfy.

- (35) The procedures governing the assessment of conformity or of suitability of use of constituents should be based on the use of the modules covered by Council Decision 93/465/EEC⁽¹²⁾. As far as possible and in order to promote industrial development, it is appropriate to draw up the procedures involving a system of quality assurance.
- (36) Conformity of constituents is mainly linked to their area of use in order to guarantee the interoperability of the system and not only to their free movement on the Community market. The suitability for use of the most critical constituents as regards safety, availability or system economy should be assessed. It is therefore not necessary for a manufacturer to affix the CE marking to constituents that are subject to the provisions of this Directive. On the basis of the assessment of conformity and/or suitability for use, the manufacturer's declaration of conformity should be sufficient.
- (37) Manufacturers are nonetheless obliged to affix the CE marking to certain components in order to certify their compliance with other Community provisions relating to them.
- (38) When a TSI enters into force, a number of interoperability constituents are already on the market. A transition period should be provided for so that these constituents can be integrated into a subsystem even if they do not strictly conform to that TSI.
- (39) The subsystems constituting the rail system should be subjected to a verification procedure. This verification must enable the authorities responsible for authorising their placing in service to be certain that, at the design, construction and putting into service stages, the result is in line with the regulations and technical and operational provisions in force. It must also enable manufacturers to be able to count upon equality of treatment whatever the country. It is therefore necessary to lay down one or more modules defining the principles and conditions applying to 'EC' verification of subsystems.
- (40) After a subsystem is placed in service, care should be taken to ensure that it is operated and maintained in accordance with the essential requirements relating to it. Under Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways (Railway Safety Directive)⁽¹³⁾, responsibility for meeting these requirements lies, for their respective subsystems, with the infrastructure manager or the railway undertaking. Member States can check compliance with these requirements when granting safety certificates and safety approvals pursuant to Articles 10 and 11 of the Railway Safety Directive.
- (41) As far as vehicles are concerned, the procedure for placing in service should be clarified taking into account the definition of vehicle which is composed of one or more subsystems. In addition, as Directives 96/48/EC and 2001/16/EC deal with new and upgraded subsystems and Directive 2004/49/EC deals with in-use vehicles, all provisions regarding authorisations for placing in service of vehicles should be integrated in this Directive. Furthermore, with a view to facilitating the placing in service of vehicles and reducing administrative burdens, a procedure for authorisation of vehicle types should be added. In order to facilitate this procedure and help identify

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vehicle types, a European register of authorised types of vehicles should be set up and maintained by the European Railway Agency (hereinafter referred to as the Agency).

- (42) Experience has shown that the implementation of such a procedure at national level is often complicated and subject to different national requirements that lack transparency, or even duplicate each other. Consequently, this procedure poses a major obstacle to the creation of new railway undertakings, particularly in the freight sector. Steps should therefore be taken to clarify and simplify the procedures for authorising vehicles. Firstly, the general principle that one authorisation is sufficient for the whole Community rail network should be established. Secondly, the procedure for authorising vehicles which are TSI conform should be simpler and quicker than in the case of non-TSI conform. Thirdly, the principle of mutual recognition should be applied as far as possible: when a vehicle has already been placed in service in one Member States, other Member States should not invoke national rules to impose unnecessary requirements and redundant verifications, unless these are strictly necessary for verifying the technical compatibility of the vehicle with the relevant network. To this end national rules should be classified and compared according to a check-list in order to determine to which extent national rules can be declared as equivalent in terms of requirements, performances and safety. Fourthly, the principle of legal certainty as regards the outcome of the procedure should be pursued. To this end, in the absence of a decision of a national safety authority within the prescribed time limits an applicant should be authorised to place in service a vehicle. Such an authorisation would only be possible if the vehicle has already been authorised in another Member State. In addition, it would only be possible for a railway undertaking or an infrastructure manager duly certified in accordance with Directive 2004/49/EC to use such a vehicle under their full responsibility.
- (43) The authorisation procedures for TSI conform and non-TSI conform vehicles are different. There may be cases where the choice of the procedure is not straightforward. Vehicles which come within the scope of TSI conform vehicles should be those vehicles where all the relevant TSIs have entered into force, including at least the TSI on rolling stock. This would mean that a significant part of the essential requirements has been laid down. For example, until such time that the conventional TSI on locomotives has entered into force, locomotives fall within scope of non-TSI conform vehicles, even though they might comply with other relevant TSIs in force at the time of their placing in service.
- (44) If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in a TSI, they are identified in an annex to the TSI as open points. When a TSI conform vehicle has already been authorised in one Member State, additional authorisations should only consider those open points that relate to technical compatibility between the vehicle and the network.
- (45) The list of parameters to be checked in conjunction with the placing in service of non-TSI conform vehicles is a key element for the achievement of interoperability of railway systems, in particular with regard to existing vehicles. This list takes into account experience across a limited number of networks. Therefore it is necessary that

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the Agency review the parameters in Annex VII and make the recommendations it considers appropriate to the Commission.

- (46) The 'EC' verification procedure should be based on TSIs. These TSIs are subject to the provisions of Article 18 of Directive 93/38/EEC. The notified bodies responsible for examining the procedures for conformity assessment and suitability for the use of constituents, together with the procedure for the assessment of subsystems must, in particular in the absence of any European specification, coordinate their decisions as closely as possible.
- (47) The notified bodies should be structured in such a way as to meet the criteria which must apply to this type of body in all sectors of the new approach to technical harmonisation and conformity verification, especially criteria relating to independence and competence.
- (48) TSIs will be revised at regular intervals. When errors are discovered, an ad hoc rapid procedure should be set up in such a way that a provisional corrigendum is first agreed in the context of a committee and then published by the Agency. This will allow an earlier use of this corrigendum by all stakeholders, including industry, notified bodies and authorities, pending a formal revision of the TSI by the Commission. In order to avoid confusion with official corrigenda of the Commission, the term technical opinion will be used. This procedure is in line with the mandate adopted by the Commission in Decision of 13 July 2007 concerning a framework mandate to the European Railway Agency for the performance of certain activities under Directives 96/48/EC and 2001/16/EC. However, if the TSI needs to be amended because of an important or critical error, a revision procedure should be applied.
- (49) The definition of the keeper should be as close as possible to the definition used in the 1999 Convention concerning International Carriage by Rail (COTIF). Many entities can be identified as a keeper of a vehicle, such as the owner, a company carrying on a business with a fleet of wagons, a company leasing vehicles to a railway undertaking, a railway undertaking or an infrastructure manager using vehicles for maintaining its infrastructure. These entities have control over the vehicle with a view to its use as a means of transport by the railway undertakings and the infrastructure managers. In order to avoid any doubt, the keeper should be clearly identified in the national vehicle registers.
- (50) 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⁽¹⁴⁾.
- (51) In particular, the Commission should be empowered to adopt and update the TSIs. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (52) When, on imperative grounds of urgency, the normal time-limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to

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apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of measures designed to amend non-essential elements of this Directive by supplementing it with TSIs or amendments thereto.

- (53) Since the objective of this Directive, namely interoperability within the rail system in Community-wide scale, cannot be sufficiently achieved by the Member States since no individual Member State is in a position to take the action needed in order to achieve such interoperability and can therefore be better achieved at Community level, 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 that objective.
- (54) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽¹⁵⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (55) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.
- (56) Article 14 of Directive 2004/49/EC and Directives 96/48/EC and 2001/16/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 256, 27.10.2007, p. 39.](#)
- (2) Position of the European Parliament of 11 December 2007 and Council Decision of 14 May 2008.
- (3) [OJ L 235, 17.9.1996, p. 6.](#) Directive as last amended by Commission Directive 2007/32/EC ([OJ L 141, 2.6.2007, p. 63](#)).
- (4) [OJ L 110, 20.4.2001, p. 1.](#) Directive as last amended by Directive 2007/32/EC.
- (5) Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system ([OJ L 164, 30.4.2004, p. 114](#). Corrected by [OJ L 220, 21.6.2004, p. 40](#)).
- (6) [OJ L 75, 15.3.2001, p. 1.](#)
- (7) [OJ L 75, 15.3.2001, p. 26.](#)
- (8) [OJ L 75, 15.3.2001, p. 29.](#) Directive as last amended by Directive 2007/58/EC ([OJ L 315, 3.12.2007, p. 44](#)).
- (9) [OJ L 228, 9.9.1996, p. 1.](#) Decision as last amended by Council Regulation (EC) No 1791/2006 ([OJ L 363, 20.12.2006, p. 1](#)).
- (10) [OJ L 237, 24.8.1991, p. 25.](#) Directive as last amended by Directive 2007/58/EC.
- (11) Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors ([OJ L 134, 30.4.2004, p. 1](#)). Directive as last amended by Commission Regulation (EC) No 213/2008 ([OJ L 74, 15.3.2008, p. 1](#)).
- (12) Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives ([OJ L 220, 30.8.1993, p. 23](#)).
- (13) [OJ L 164, 30.4.2004, p. 44.](#) Corrected by [OJ L 220, 21.6.2004, p. 16](#).
- (14) [OJ L 184, 17.7.1999, p. 23.](#) Decision as amended by Decision 2006/512/EC ([OJ L 200, 22.7.2006, p. 11](#)).
- (15) [OJ C 321, 31.12.2003, p. 1.](#)