

Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast) (Text with EEA relevance)

CHAPTER VIII

**TRANSITIONAL AND FINAL PROVISIONS**

*Article 50*

**Exercise of delegation**

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 5(1) shall be conferred on the Commission for a period of five years from 15 June 2016. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 It is of particular importance that the Commission follow its usual practice and carry out consultations with experts, including Member States' experts, before adopting those delegated acts.

4 The delegation of power referred to in Article 5(1) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in *the Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 5(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 51*

**Committee procedure**

1 The Commission shall be assisted by the committee established by Article 21 of Council Directive 96/48/EC<sup>(1)</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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2 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

#### *Article 52*

### **Motivation**

Any decision taken pursuant to this Directive concerning the assessment of conformity or suitability for use of interoperability constituents or the checking of subsystems constituting the Union rail system or any decision taken pursuant to Articles 7, 12 and 17 shall set out in detail the reasons on which it is based. It shall be notified as soon as possible to the party concerned, together with an indication of the remedies available under the law in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.

#### *Article 53*

### **Reports and information**

1 By 16 June 2018, the Commission shall report on the progress made in preparing for the Agency's enhanced role under this Directive. Additionally, every three years and for the first time three years after the end of the transitional period provided for by Article 54, the Commission shall report to the European Parliament and to the Council on the progress made towards achieving interoperability of the Union rail system and the functioning of the Agency in this context. That report shall also include an evaluation of the implementation and use of the registers under Chapter VII and an analysis of the cases set out in Article 7 and of the application of Chapter V, assessing in particular the functioning of the cooperation agreements concluded between the Agency and national safety authorities. For the purposes of the first report, after the end of the transitional period the Commission shall carry out extensive consultations with the relevant stakeholders and shall establish a programme to allow for the assessment of progress. The Commission shall, if appropriate in the light of the above analysis, propose legislative measures including measures for the future role of the Agency in enhancing interoperability.

2 The Agency shall develop and periodically update a tool capable of providing, at the request of a Member State, the European Parliament or of the Commission, an overview of the interoperability level of the Union rail system. That tool shall use the information included in the registers provided for in Chapter VII.

#### *Article 54*

### **Transitional regime for using vehicles**

1 Without prejudice to paragraph 4 of this Article, vehicles which need to be authorised between 15 June 2016 and 16 June 2019 shall be subject to the provisions set out in Chapter V of Directive 2008/57/EC.

2 Authorisations for the placing in service of vehicles which have been granted pursuant to paragraph 1 and all other authorisations granted prior to 15 June 2016, including authorisations delivered under international agreements, in particular RIC (*Regolamento Internazionale Carrozze*) and RIV (*Regolamento Internazionale Veicoli*), shall remain valid in accordance with the conditions under which the authorisations have been granted.

3 Vehicles authorised for placing in service pursuant to paragraphs 1 and 2 shall receive a new vehicle authorisation for placing on the market in order to operate on one or more networks which are not yet covered by their authorisation. The placing on the market on those additional networks shall be subject to Article 21.

[<sup>F1</sup> At the latest from 16 June 2019 the Agency shall carry out the authorisation tasks pursuant to Articles 21 and 24 and the tasks referred to in Article 19 in respect of areas of use in the Member States that have not notified the Agency and the Commission in accordance with Article 57(2). By way of derogation from Articles 21 and 24, national safety authorities of Member States which have notified the Agency and Commission pursuant to Article 57(2) may continue to issue authorisations in accordance with Directive 2008/57/EC until 16 June 2020. By way of derogation from Articles 21 and 24, national safety authorities of Member States which have notified the Agency and Commission pursuant to Article 57(2a) may continue to issue authorisations in accordance with Directive 2008/57/EC until 31 October 2020.]

#### Textual Amendments

- F1** Substituted by [Directive \(EU\) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives \(EU\) 2016/797 and \(EU\) 2016/798, as regards the extension of their transposition periods \(Text with EEA relevance\)](#).

### Article 55

#### Other transitional provisions

1 Annexes IV, V, VII and IX to Directive 2008/57/EC shall apply until the date of application of the corresponding implementing acts referred to in Article 7(5), Article 9(4), Article 14(10) and Article 15(9) of this Directive.

2 Directive 2008/57/EC shall continue to apply in relation to ERTMS trackside projects which are to be placed in service between 15 June 2016 and 16 June 2019.

3 Projects which have completed the tendering or contracting phase prior to 16 June 2019 are not subject to the pre-authorisation by the Agency referred to in Article 19.

4 Until 16 June 2031 options included in contracts which were signed before 15 June 2016 shall not be subject to the pre-authorisation by the Agency referred to in Article 19, even if they are exercised after 15 June 2016.

5 Before authorising the placing in service of any ERTMS track-side equipment which was not subject to the pre-authorisation by the Agency referred to in Article 19, national safety authorities shall cooperate with the Agency in order to ensure that the technical solutions are fully interoperable, in accordance with Articles 30(3) and 31(2) of Regulation (EU) 2016/796.

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## Article 56

### Recommendations and opinions of the Agency

The Agency shall provide recommendations and opinions in accordance with Article 19 of Regulation (EU) 2016/796 for the purpose of application of this Directive. Where relevant, those recommendations and opinions shall be taken into account when implementing acts are being drawn up pursuant to this Directive.

## Article 57

### Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 1 and 2, Article 7(1) to (4) and (6), Article 8, Article 9(1), Article 10(5), Article 11(1), (3) and (4), Articles 12, 13 and 14, Article 15(1) to (8), Article 16, Article 18, Article 19(3), Articles 21 to 39, Article 40(2), Articles 41, 42, 44, 45 and 46, Article 47(1), (3), (4) and (7), Article 49(1) to (4), Article 54 and Annexes I, II, III and IV by 16 June 2019. They shall immediately communicate the text of those measures to the Commission.

2 Member States may extend the transposition period referred to in paragraph 1 by one year. For that purpose, by 16 December 2018, Member States which do not bring into force the laws, regulations and administrative provisions within the transposition period referred to in paragraph 1 shall notify the Agency and the Commission thereof and present the reasons for such extension.

[<sup>F2a</sup> Member States that have extended the transposition period in accordance with paragraph 2 may further extend it until 31 October 2020. Their transposition measures shall apply from that date. Those Member States shall notify the Agency and the Commission thereof by 29 May 2020.]

3 When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

4 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

5 The obligation to transpose and implement Article 13, Article 14(1) to (8), (11) and (12), Article 15(1) to (9), Article 16(1), Articles 19 to 26, Articles 45, 46 and 47, Article 49(1) to (4) and Article 54 of this Directive shall not apply to Cyprus and Malta for as long as no rail system is established within their territories.

However, as soon as a public or private entity submits an official application to build a railway line with a view to its operation by one or more railway undertakings, the Member States concerned shall put in place measures to implement the Articles referred to in the first subparagraph within two years of receipt of the application.

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#### Textual Amendments

- F2** Inserted by Directive (EU) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives (EU) 2016/797 and (EU) 2016/798, as regards the extension of their transposition periods (Text with EEA relevance).

#### Article 58

#### Repeal

Directive 2008/57/EC, as amended by the Directives listed in Annex V, Part A, is repealed with effect from [<sup>F1</sup>31 October 2020], without prejudice to the obligations of the Member States relating to the time limits for the transposition into national law of the Directives set out in Annex V, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VI.

#### Textual Amendments

- F1** Substituted by Directive (EU) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives (EU) 2016/797 and (EU) 2016/798, as regards the extension of their transposition periods (Text with EEA relevance).

#### Article 59

#### Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### Article 60

#### Addressees

This Directive is addressed to the Member States.

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- (1) Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system ([OJ L 235, 17.9.1996, p. 6](#)).