

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 96/48/EC and Directive 2001/16/EC on the interoperability of the trans-European rail system

(2002/C 126 E/07)

(Text with EEA relevance)

COM(2002) 22 final — 2002/0023(COD)

(Submitted by the Commission on 24 January 2002)

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 Commission proposal,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

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

Whereas:

- (1) Under Articles 154 and 155 of the Treaty, the Community must contribute to the establishment and development of trans-European networks in the transport sector. In order to achieve these objectives, the Community must take any action necessary to ensure the interoperability of the networks, particularly in the field of technical standardisation.
- (2) An initial measure was taken in the rail sector with the adoption of Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system⁽¹⁾. In order to implement the objectives of that Directive, technical specifications for interoperability (TSIs) are drafted by the European Association for Railway Interoperability (AEIF) which was designated as the joint representative body in the framework of the Directive.
- (3) On 10 September 1999 the Commission adopted a report to the Council and the European Parliament⁽²⁾ which gave an initial assessment of progress made in implementing the interoperability of the trans-European high-speed rail system. In its resolution of 17 May

2000, the European Parliament called on the Commission to present proposals for amending Directive 96/48/EC on the basis of the model used for the Directive on the interoperability of the conventional rail system.

- (4) Directive 2001/16/EC of the Parliament and of the Council of 19 March 2001 on the interoperability of the conventional rail system⁽³⁾ introduces, like the Directive on the high-speed system, Community procedures for the preparation and adoption of TSIs, and common rules for assessing conformity with the specifications. A mandate for the development of the first group of TSIs has been given to the AEIF, also designated as the Joint Representative Body.
- (5) A number of lessons have been learned from the work on developing TSIs in the high-speed sector, the application of Directive 96/48/EC to specific projects and the work of the committee set up under that Directive, which have led the Commission to propose changes to the two Directives on railway interoperability.
- (6) The adoption of Regulation ... setting up a European Railway Agency responsible for safety and interoperability and of Directive ... on railway safety mean that certain provisions of the two Directives on railway interoperability need to be recast. In particular, once the Agency is established, the task of drafting any new or revised TSIs will be entrusted to it by the Commission.
- (7) The entry into force of Directives 2001/12/EC⁽⁴⁾, 2001/13/EC⁽⁵⁾ and 2001/14/EC⁽⁶⁾ has an impact on the implementation of interoperability. In particular, Directive 2001/12/EC provides for complete opening up of the rail network to international freight services in 2008. 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 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.

⁽¹⁾ OJ L 235, 17.9.1996, p. 6.

⁽²⁾ Report COM(1999) 414 final.

⁽³⁾ OJ L 110, 20.4.2001, p. 1.

⁽⁴⁾ OJ L 75, 15.3.2001, p. 1.

⁽⁵⁾ OJ L 75, 15.3.2001, p. 26.

⁽⁶⁾ OJ L 75, 15.3.2001, p. 29.

- (8) The White Paper on European transport policy announces this Directive, which is part of the Commission's strategy to revitalise rail transport and, consequently, to shift the balance between transport modes, with the ultimate objective of reducing congestion on Europe's roads.
- (9) The TSIs developed in the framework of Directive 96/48/EC do not explicitly concern the work on renewing infrastructure and rolling stock, nor replacements in the context of preventive maintenance. This is the case, however, under Directive 2001/16/EC on the conventional rail system, and the two Directives should be harmonised on this point.
- (10) The development of TSIs in the high-speed sector has shown the need to clarify the relationship between the essential requirements of Directive 96/48/EC and the TSIs on the one hand, and the European standards and other documents of a normative nature on the other. In particular, a clear distinction must be made between the standards or parts of standards which must be made mandatory in order to achieve the objectives of the Directive, and the 'harmonised' standards that have been developed in the spirit of the new approach to technical harmonisation ⁽¹⁾.
- (11) As a rule, the 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 the Directive, particularly in the case of interoperability constituents and interfaces. These European specifications (or the applicable parts) are not mandatory and no explicit reference may be made in the TSIs. References to these European specifications are published in the *Official Journal of the European Communities*, and Member States publish the references to the national standards transposing the European standards.
- (12) 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 and specifications become mandatory from the moment the TSI is applicable.
- (13) The TSI sets all the conditions to 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.
- (14) It is necessary for safety reasons to require Member States to assign an identification code to each vehicle placed in service. The vehicle is then entered in a national vehicle register. The national registers must be open to consultation by all Member States and by certain Community economic players. The registers must be consistent as regards the data format. They must therefore be covered by common operational and technical specifications.
- (15) 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 must be specified. In such case, the bodies responsible for the conformity assessment and verification procedures should be those already notified under Article 20 of Directives 96/48/EC and 2001/16/EC.
- (16) The necessary measures must be adopted to implement this Directive in conformity with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (17) The definition of rolling stock in Annex I to Directive 96/48/EC needs to be clarified. The Directive must also concern rolling stock designed to operate only on track upgraded for high speeds, at speeds of the order of 200 km/h.
- (18) The application of this Directive must, as far as possible, preserve the work already undertaken in the framework of Directives 96/48/EC and 2001/16/EC and the application of these Directives by Member States in the framework of projects which are at an advanced stage of development when the Directive enters into force.
- (19) As the objective of the planned action, i.e. the interoperability of the trans-European rail system, cannot be adequately achieved by the Member States and can therefore, given its trans-European character as recognised by the Treaty, be achieved better at the Community level, the Community can take action in conformity with the subsidiarity principle enshrined in Article 5 of the Treaty. In keeping with the proportionality principle set out in that Article, this Directive does not go beyond what is required to achieve that objective.
- ⁽¹⁾ The principles of the new approach to technical harmonisation and standardisation were adopted in 1985 (OJ C 136, 4.6.1985). According to this approach, directives define the essential requirements which products must meet when they are placed on the market, but they do not specify the technical means to be used in order to meet these requirements.
- ⁽²⁾ OJ L 184, 17.7.1999, p. 23.

(20) It is therefore necessary to amend Directives 96/48/EC and 2001/16/EC,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 96/48/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

1. The aim of this Directive is to establish the conditions to be met to achieve interoperability within Community territory of the trans-European high-speed rail system as described in Annex I.

These conditions concern the design, construction, putting into service, upgrading, renewal, operation and maintenance of the parts of this system put into service after the date of entry into force of this Directive, as well as the qualifications and health and safety conditions of the staff who contribute to its operation.

2. The pursuit of this objective must lead to the definition of a minimum level of technical harmonisation and make it possible to:

- (a) facilitate, improve and develop international rail transport services within the European Union and with third countries;
- (b) contribute to the gradual creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the trans-European high-speed rail system;
- (c) contribute to the interoperability of the high-speed rail system.'

2. The following points are inserted in Article 2:

'(j) "basic parameter" means any regulatory, technical or operational condition which is critical to interoperability and requires a decision or recommendation in accordance with the procedure laid down in Article 21(2) before any development of complete draft TSIs;

(k) "specific case" means any part of the trans-European high-speed rail system which needs special provisions in the TSIs, either temporary or definitive, because of geographical, topographical or urban environment constraints or those affecting compatibility with the existing system. This may include in particular railway lines and networks isolated from the rest of the Community, the loading gauge, the track gauge or space between the tracks;

(l) "upgrading" means any major modification work on a subsystem or part subsystem which changes the performance of the subsystem;

(m) "substitution in the framework of maintenance" means any replacement of components by parts of identical function and performance in the framework of preventive or corrective maintenance;

(n) "renewal" means any major substitution work on a subsystem or part subsystem which does not change the performance of the subsystem;

(o) "existing rail system" means the structure composed of the railway infrastructures, comprising lines and fixed installations of the existing rail system plus the existing rolling stock of all categories and origin travelling on that infrastructure;

(p) "putting into or placing in service" means all the operations by which a subsystem is put into its design operating state.'

3. Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Each of the subsystems shall be covered by one or more TSIs. In the case of subsystems concerning the environment or users, TSIs will be drawn up only to the extent necessary. A supplementary TSI may prove necessary, in particular to promote the use of the high-speed rail system for the carriage of high value-added goods or for applications necessary in order to interconnect the high-speed rail system with airports.'

(b) Paragraph 3 is replaced by the following:

— point (f) is replaced by the following:

'(f) state, in each case under consideration, which procedures are to be used in order to assess either the conformity or the suitability for use of the interoperability constituents, or the "EC" verification of the subsystems. These procedures shall be based on the modules defined in Decision 93/465/EEC;'

— The following points (g) et (h) are inserted:

'(g) indicate the strategy for implementing the TSIs, in particular the stages to be completed in order to make a gradual transition from the existing situation to the final situation in which compliance with the TSIs shall be the norm;

(h) indicate, for the staff concerned, the professional qualifications and health and safety conditions at work required for the operation and maintenance of the above subsystem, as well as for the implementation of the TSIs.'

(c) The following paragraph 6 is inserted:

'6. TSIs may make an explicit reference to European standards or specifications where this is strictly necessary in order to achieve the objectives of this Directive. In such case, these European standards or specifications (or the relevant parts) shall be regarded as annexes to the TSI concerned and shall become mandatory from the moment the TSI is applicable. In the absence of European specifications and pending their development, reference may be made to other normative documents; in such case, this shall concern documents that are easily accessible and in the public domain.'

4. Article 6 is replaced by the following:

'Article 6

1. Draft TSIs shall be drawn up under a mandate from the Commission by the European Railway Agency, hereinafter referred to as the "Agency", in accordance with the procedure set out in Article 21(2).

TSIs shall be adopted and reviewed by the procedure set out in Article 21(2). They shall be published by the Commission in the *Official Journal of the European Communities*.

2. The Agency shall be responsible for preparing the review and updating of TSIs and making any recommendations to the Committee referred to in Article 21 in order to take account of developments in technology or social requirements.

3. The preparation, adoption and review of TSIs shall take account of the estimated cost of technical solutions by which they may be met, with a view to defining and implementing the most viable solutions. To that end, the Agency shall attach to each draft TSI an assessment of the estimated costs and benefits of those technical solutions for all the economic operators and agents concerned.

4. The Committee referred to in Article 21 shall be kept regularly informed of the preparatory work on the TSIs by the Agency. The Committee may give the Agency any useful recommendation or brief regarding the design of the TSIs, on the basis of the essential requirements or regarding the cost assessment.

5. When each TSI is adopted, the date of its entry into force shall be laid down in accordance with the procedure referred to in Article 21(2).

6. The adoption and review of the TSIs shall take account of the opinion of users, as regards the characteristics which have a direct impact on the conditions in which they use the subsystems. To that end the Agency shall consult associations and bodies representing users during the drafting and review phases of the TSIs. They shall enclose with the draft TSI a report on the results of this consultation.

The list of associations and bodies to be consulted shall be finalised by the Committee referred to in Article 21 before adopting the mandate to review the TSIs and may be re-examined and updated at the request of a Member State or the Commission.

7. The adoption and review of the TSIs shall take account of the opinion of the social partners as regards the conditions referred to in Article 5(3)(g). To that end, the social partners shall be consulted before the draft TSI is submitted, for adoption or review, to the Committee referred to in Article 21. The social partners shall be consulted in the context of the sectoral dialogue committee set up in accordance with Commission Decision 98/500/EC (*). The social partners shall issue their opinion within three months.

(*) OJ L 255, 12.8.1998, p. 27.'

5. The following subparagraph is inserted in Article 9:

'In particular, they may not require checks which have already been carried out as part of the procedure leading to the "EC" declaration of conformity or suitability for use.'

6. Article 10 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. All constituents shall be subject to the procedure for assessing conformity and suitability for the use indicated in the respective TSI and be accompanied by the corresponding certificate.'

(b) Paragraphs 3, 4 and 5 are deleted.

7. Article 11 is replaced by the following:

'Article 11

Where it appears to a Member State or the Commission that European specifications used directly or indirectly for the purposes of this Directive do not meet the essential requirements, partial or total withdrawal of the specifications concerned from the publications containing them, or their amendment, may be decided upon in accordance with the procedure set out in Article 21(2) after consultation of the Committee set up under Council Directive 98/34/EC (*).

(*) OJ L 217, 5.8.1998, p. 18.'

8. Article 14 is replaced by the following:

'Article 14

1. Each Member State shall authorise the putting into service of those structural subsystems constituting the trans-European high-speed rail system which are located or operated in its territory.

To this end, Member States shall take all appropriate steps to ensure that these subsystems may be put into service only if they are designed, constructed and installed in such a way that they do not compromise satisfaction of the essential requirements concerning them when integrated into the trans-European high-speed rail system.

In particular, they shall check the compatibility of these subsystems with the system into which they are being integrated.

2. Each Member State shall check, when the subsystems are put into service and at regular intervals thereafter, that they are operated and maintained in accordance with the essential requirements concerning them. To that end, the assessment and verification procedures laid down in the respective structural and functional TSIs shall be used.

3. In the event of renewal or upgrading, the manager of the rail infrastructure or enterprise shall send the Member State concerned a file describing the project. The Member State shall examine this file and, taking account of the implementation strategy indicated in the applicable TSI, shall decide whether the size of the works means that a new authorisation for putting into service within the meaning of this Directive is needed.

Such new authorisation for putting into service shall be required each time the safety level may be affected by the works envisaged.

4. Where Member States authorise the putting into service of rolling stock, they shall assign to each vehicle an alphanumeric identification code. This code must be marked on each vehicle and figure in a national vehicle register that meets the following criteria:

- (a) the national vehicle register shall comply with the common specifications defined in paragraph 5;
- (b) the national vehicle register shall be kept up-to-date by a body independent of the manager of the infrastructure or of any railway company;
- (c) the national vehicle register shall be accessible to the authorities designated in Articles 12 and 18 of Directive .../.../EC of the European Parliament and of the Council (*) in respect of information concerning

railway safety; it shall also be accessible, for any legitimate request, to the authorities designated in Article 30 of Directive 2001/14/EC (**), to the Agency, to the railway companies and to the infrastructure managers.

5. The common specifications for the vehicle register shall be adopted in accordance with the procedure set out in Article 21(2), on the basis of a draft prepared by the Agency. The register shall contain at least the following information:

- (a) references of the "EC" declaration of verification and the issuing body;
- (b) references of the register of rolling stock mentioned in Article 22a;
- (c) identification of the owner of the vehicle and of the railway company that uses it;
- (d) any restrictions on how the vehicle may be used;
- (e) data relating to the state of maintenance of the vehicle.

(*) OJ L ...

(**) OJ L 75, 15.3.2001, p. 29.'

9. The following subparagraph is inserted in Article 15:

'In particular, they may not require checks which have already been carried out as part of the procedure leading to the "EC" declaration of verification.'

10. The following subparagraph is inserted in Article 16(3):

'On that occasion, Member States shall also designate the bodies responsible for carrying out, in the case of these technical regulations, the procedures for assessing conformity or suitability for the use referred to in Article 13 and the verification procedure referred to in Article 18.'

11. The following subparagraph is inserted in Article 17:

'In such a case, the TSIs shall be reviewed in accordance with Article 6(2). If certain technical aspects corresponding to the essential requirements cannot be immediately and explicitly covered in a TSI, they shall be clearly identified in an annex to the TSI. Article 16(3) shall apply to these aspects.'

12. The following subparagraph is inserted in Article 18(2):

'They shall also cover verification of the interfaces of the subsystem in question in relation to the system in which it is integrated, based on the information available in the respective TSI and the registers defined in Article 22a.'

13. Article 20(5) is replaced by the following:

'5. The Commission shall set up a notified bodies coordination group (hereinafter the "coordination group") which shall discuss any matter related to the application of the procedures for assessing conformity or suitability for the use referred to in Article 13 and the verification procedure referred to in Article 18, or to application of the relevant TSIs.

The Commission shall inform the committee referred to in Article 21(1) of the work carried out in the framework of this coordination group. Member States' representatives may take part in the work of the coordination group as observers.'

14. Article 21 is replaced by the following ⁽¹⁾:

'Article 21

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission (hereinafter referred to as "the Committee").

2. Where reference is made to this paragraph, Article 5 of Decision 1999/468/EC shall apply, having regard to the provisions of Articles 7 and 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.'

15. The following Articles 21a, 21b and 21c are inserted:

'Article 21a

1. The Committee may discuss any matter relating to the interoperability of the trans-European rail system, including questions relating to interoperability between the trans-European rail system and the rail system of third countries.

2. The Committee may discuss any matter relating to the implementation of this Directive. If necessary, the Commission shall adopt an implementing recommendation in accordance with the procedure set out in Article 21(2).

Article 21b

1. The Commission may decide, on its own initiative or at the request of a Member State, in accordance with the

procedure set out in Article 21(2), to draft a TSI for an additional subject, to the extent that it concerns a subsystem referred to in Annex II.

2. In accordance with the procedure laid down in Article 21(2), the Committee shall adopt a work programme conforming to the objectives of this Directive and Directive 2001/16/EC.

Article 21c

The Annexes may be amended by the procedure set out in Article 21(2).'

16. The following Article 22a is inserted:

'Article 22a

1. Member States shall ensure that a register of infrastructure and a register of rolling stock respectively are published and updated annually. These registers shall indicate the main features of each subsystem or part subsystem involved, e.g. the basic parameters, and their correlation with the features laid down by the applicable TSIs. To that end, each TSI shall indicate precisely which information must be included in the registers of infrastructure and of rolling stock.

2. A copy of those registers shall be sent to the Member States concerned and to the Agency and shall be made available for consultation by the public.'

17. Annex I is replaced by the text in Annex I to this Directive.

18. Annex II is replaced by the text in Annex II to this Directive.

19. The following subparagraph is inserted in Annex VII, point 2:

'In particular, the body and the staff responsible for the checks must be contractually, hierarchically and functionally independent of the authorities designated to issue authorisations for putting into service in the framework of this Directive, licences in the framework of Directive 2000/13/EC and safety certificates in the framework of Directive ... on rail safety, and of the bodies in charge of inspections in the event of accidents.'

Article 2

Directive 2001/16/EC is amended as follows:

1. The title is replaced by the following: 'Directive 2001/16/EC of the European Parliament and of the Council on the interoperability of the conventional rail system'.

⁽¹⁾ Paragraphs 1 to 3 of this Article are to be deleted in the event that the SG proposal for streamlining all committees is adopted before this proposal.

2. The following paragraph 3 is inserted in Article 1:

'3. With effect from 1 January 2008, the scope of this Directive shall be extended to the whole rail system, except for infrastructure and rolling stock reserved for a strictly local, historical or touristic use and isolated from the rest of the rail system.'

3. Article 2 is amended as follows:

(a) Points (l) and (m) are replaced by the following:

(l) "upgrading" means any major modification work on a subsystem or part subsystem which changes the performance of the subsystem;

(m) "renewal" means any major substitution work on a subsystem or part subsystem which does not change the performance of the subsystem;

(b) The following points (o) and (p) are inserted:

(o) "substitution in the framework of maintenance" means any replacement of components by parts of identical function and performance in the framework of preventive or corrective maintenance;

(p) "putting into or placing in service" means all the operations by which a subsystem is put into its design operating state.'

4. Article 5 is amended as follows:

(a) Point (e) in paragraph 3 is replaced by the following:

(e) state, in each case under consideration, which procedures are to be used in order to assess either the conformity or the suitability for use of the interoperability constituents, or the EC verification of the subsystems. These procedures shall be based on the modules defined in Decision 93/465/EEC;

(b) The following paragraph 7 is added:

'7. TSIs may make an explicit reference to European standards or specifications where this is strictly necessary in order to achieve the objectives of this Directive. In such case, these European standards or specifications (or the relevant parts) shall be regarded as annexes to the TSI concerned and shall become mandatory from the moment the TSI is applicable. In the absence of European specifications and pending their development, reference may be made to other normative documents; in such case, this shall concern documents that are easily accessible and in the public domain.'

5. Article 6 is replaced by the following:

'Article 6

1. Draft TSIs shall be drawn up by the Agency under a mandate from the Commission in accordance with the procedure set out in Article 21(2). TSIs shall be adopted and reviewed by the same procedure. They shall be published by the Commission in the *Official Journal of the European Communities*.

2. The Agency shall be responsible for preparing the review and updating of TSIs and making any recommendations to the Committee referred to in Article 21 in order to take account of developments in technology or social requirements.

3. Each draft TSI shall be drawn up in two stages.

4. First of all, the Agency shall identify the basic parameters for this TSI as well as the interfaces with the other subsystems and any other specific cases that may be necessary. The most viable alternative solutions accompanied by technical and economic justification shall be put forward for each of these parameters and interfaces. A decision shall be taken in accordance with the procedure set out in Article 21(2); if necessary, specific cases shall be cited.

The Agency shall then draw up the draft TSI on the basis of these basic parameters. Where appropriate, the Agency shall take account of technical progress, of standardisation work already carried out, of working parties already in place and of acknowledged research work. An overall assessment of the estimated costs and benefits of the implementation of the TSIs shall be attached to the draft TSI; this assessment shall indicate the likely impact for all the operators and economic agents involved.

5. The drafting, adoption and review of each TSI (including the basic parameters) shall take account of the estimated costs and benefits of all the technical solutions considered together with the interfaces between them, so as to establish and implement the most viable solutions. The Member States shall participate in this assessment by providing the requisite data.

6. The Committee referred to in Article 21 shall be kept regularly informed of the preparatory work on the TSIs. During this work the Committee may formulate any terms of reference or useful recommendations concerning the design of the TSIs and the cost-benefit analysis. In particular, the Committee may, at the request of a Member State, require that alternative solutions be examined and that the assessment of the cost and benefits of these alternative solutions be set out in the report annexed to the draft TSI.

7. On the adoption of each TSI, the date of entry into force of that TSI shall be established in accordance with the procedure provided for in Article 21(2). Where different subsystems have to be put into service simultaneously for reasons of technical compatibility, the dates of entry into force of the corresponding TSIs shall be the same.

8. The drafting and review of the TSIs shall take account of the opinions of the users, as regards the characteristics which have a direct impact on the conditions in which they use the subsystems. To that end the Agency shall consult associations and bodies representing users during the drafting and review phases of the TSIs. They shall enclose with the draft TSI a report on the results of this consultation.

The list of associations and bodies to be consulted shall be finalised by the Committee referred to in Article 21 before adopting the mandate of the first TSI and may be re-examined and updated at the request of a Member State or the Commission.

9. The drafting and review of the TSIs shall take account of the opinion of the social partners as regards the conditions referred to in Article 5(3)(g).

To this end, the social partners shall be consulted before the draft TSI is submitted, for adoption or review, to the Committee referred to in Article 21.

The social partners shall be consulted in the context of the Sectoral Dialogue Committee set up in accordance with Commission Decision 98/500/EC⁽¹⁾. The social partners shall issue their opinion within three months.'

6. Article 10 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. All constituents shall be subject to the procedure for assessing conformity and suitability for the use indicated in the respective TSI and shall be accompanied by the corresponding certificate.'

(b) Paragraphs 4, 5 and 6 are deleted.

7. Article 11 is replaced by the following:

'Article 11

Where it appears to a Member State or the Commission that European specifications used directly or indirectly to achieve the objectives of this Directive do not meet the essential requirements, partial or total withdrawal of the specifications concerned from the publications containing them, or their amendment, may be decided upon in accordance with the procedure laid down in Article 21(2) after consultation of the committee set up under Council Directive 98/34/EC^(*).

^(*) OJ L 204, 21.7.1998, p. 37.'

⁽¹⁾ Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at European level (OJ L 255, 12.8.1998, p. 27).

8. Article 14 is amended as follows:

(a) The following subparagraph is inserted in paragraph 2:

'To that end, the assessment and verification procedures laid down in the respective structural and functional TSIs shall be used.'

(b) The following paragraphs 4 and 5 are inserted:

'4. Where Member States authorise the putting into service of rolling stock, they shall assign to each vehicle an alphanumeric identification code. This code must be marked on each vehicle and figure in a national vehicle register that meets the following criteria:

(a) the national vehicle register shall comply with the common specifications defined in paragraph 5;

(b) the national vehicle register shall be kept up-to-date by a body independent of the manager of the infrastructure or of any railway company;

(c) the national vehicle register shall be accessible to the authorities designated in Articles 12 and 18 of Directive . . . [of the European Parliament and of the Council?] ^(*) in respect of information concerning railway safety. It shall also be accessible, for any legitimate request, to the authorities designated in Article 30 of Directive 2001/14/EC ^(**), to the Agency, to the railway companies and to the infrastructure managers.

5. The common specifications for the vehicle register shall be adopted in accordance with the procedure laid down in Article 21(2), on the basis of a draft prepared by the Agency. The register shall contain at least the following information:

(a) references of the EC declaration of verification and the issuing body;

(b) references of the register of rolling stock mentioned in Article 24;

(c) identification of the owner of the vehicle and of the railway company that uses it;

(d) any restrictions on how the vehicle may be used;

(e) data relating to the state of maintenance of the vehicle.

^(*) OJ L . . .

^(**) OJ L 75, 15.3.2001, p. 29.'

9. The following subparagraph is inserted in Article 16(3):

'On that occasion, Member States shall also designate the bodies responsible for carrying out, in the case of these technical regulations, the procedures for assessing conformity or suitability for the use referred to in Article 13 and the verification procedure referred to in Article 18.'

10. The following subparagraph is inserted in Article 17:

'In such a case, the TSIs shall be reviewed in accordance with the procedure referred to in Article 6(2). If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in a TSI, they shall be clearly identified in an annex to the TSI.

Article 16(3) shall apply to these aspects.'

11. Article 20(5) is replaced by the following:

'5. The Commission shall set up a notified bodies coordination group which shall discuss any matter related to the application of the procedures for assessing conformity or suitability for the use referred to in Article 13 and the verification procedure referred to in Article 18, or to application of the relevant TSIs. The Commission shall inform the Committee referred to in Article 21(1) of the work carried out in the framework of this coordination group. Member States' representatives may take part in the work of the coordination group as observers.'

12. The following Articles 21a and 21b are inserted:

Article 21a

The Commission may submit to the Committee any matter relating to the implementation of this Directive. If necessary, the Commission shall adopt an implementing recommendation in accordance with the procedure set out in Article 21(2).

Article 21b

The Annexes may be amended by the procedure set out in Article 21(2).'

13. The following subparagraph is inserted in Annex VII, point 2:

'In particular, the body and the staff responsible for the checks must be contractually, hierarchically and functionally independent of the authorities designated to issue authorisations for putting into service in the framework of this Directive, licences in the framework of Directive 2000/13/EC and safety certificates in the framework of Directive ... on rail safety, and of the bodies in charge of inspections in the event of accidents.'

14. Annex VIII is deleted.

Article 3

The Commission shall take all necessary measures to ensure that the application of the provisions of this Directive preserve as far as possible the TSI development work already mandated in the framework of Directives 96/48/EC and 2001/16/EC, and the application of these Directives by Member States in the framework of projects that are at an advanced stage of development when this Directive enters into force.

Article 4

Member States shall bring into force the laws, regulations and administrative provisions needed to comply with this Directive no later than [...] ⁽¹⁾. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 5

This Directive shall enter into force on the [...] day following its publication in the *Official Journal of the European Communities*.

Article 6

This Directive is addressed to the Member States.

⁽¹⁾ 24 months after the date of entry into force of this Directive.

ANNEX I

THE TRANS-EUROPEAN HIGH-SPEED RAIL SYSTEM**1. The infrastructure**

The infrastructure of the trans-European high-speed rail system shall be that of the lines of the trans-European transport network identified 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⁽¹⁾ or listed in any update to the same Decision as a result of the revision provided for in Article 21 of that Decision.

The high-speed lines shall comprise:

- specially built high-speed lines equipped for speeds generally equal to or greater than 250 km/h,
- specially upgraded high-speed lines equipped for speeds of the order of 200 km/h,
- specially upgraded high-speed lines which have special features as a result of topographical, relief or town-planning constraints, on which the speed must be adapted to each case.

This infrastructure includes traffic management, tracking and navigation systems; technical installations for data processing and telecommunications intended for passenger services on these lines in order to guarantee the safe and harmonious operation of the network and efficient traffic management.

2. The rolling stock

The rolling stock referred to in this Directive shall comprise trains designed to operate:

- either at speeds of at least 250 km/h on lines specially built for high speeds, while enabling operation at speeds exceeding 300 km/h in appropriate circumstances,
- or at speeds of the order of 200 km/h, on existing lines specially upgraded for high-speed operation.

3. Compatibility of the trans-European conventional railway system

The quality of rail services in Europe depends, inter alia, on excellent compatibility between the characteristics of the infrastructure (in the broadest sense, i.e. the fixed parts of all the subsystems concerned) and those of the rolling stock (including the onboard components of all the subsystems concerned). Performance levels, safety, quality of service and cost depend upon that compatibility.

⁽¹⁾ OJ L 228, 9.9.1996, p. 1.

ANNEX II

SUBSYSTEMS**1. List of subsystems**

For the purposes of this Directive, the system constituting the trans-European high-speed rail system may be broken down into the following subsystems:

- (a) either structural areas:
- infrastructure;
 - energy;
 - control and command and signalling;
 - traffic operation and management;
 - rolling stock;

(b) or operational areas:

- maintenance;
- telematics applications for passenger and freight services.

2. Areas to be covered

For each subsystem, the list of aspects relating to interoperability is indicated in the mandates for drawing up TSIs given to the Agency.

Under the provisions of Article 6(1), these mandates shall be established in accordance with the procedure laid down in Article 21(2).

Where necessary, the list of aspects relating to interoperability indicated in the mandates is specified by the Agency in accordance with the provisions of Article 5(3)(c).

3. Basic parameters

Within the meaning of Article 5(3)(b), the following in particular are regarded as basic parameters for achieving interoperability ⁽¹⁾:

- Minimum infrastructure gauges
- Minimum radius of curvature
- Track gauge
- Maximum track stressing
- Minimum platform length
- Platform height
- Power-supply voltage
- Catenary geometry
- ERTMS characteristics ⁽²⁾
- Axle loading
- Maximum train length
- Gauge of rolling stock
- Minimum braking characteristics
- Boundary electrical characteristics of rolling stock
- Boundary mechanical characteristics of rolling stock
- Operating characteristics linked to train safety
- Boundary characteristics linked to outside noise
- Boundary characteristics linked to outside vibrations
- Boundary characteristics linked to outside electromagnetic interference
- Boundary characteristics linked to inside noise
- Boundary characteristics linked to air conditioning
- Characteristics linked to the carriage of disabled persons.

⁽¹⁾ Cf. Commission recommendation 2001/290/EC.

⁽²⁾ European Rail Traffic Management System: cf. Commission Decisions 1999/569/EC and 2001/260/EC.