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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the interoperability of the Community rail system

(presented by the Commission)

1. CONTEXT OF THE PROPOSAL

• **Grounds for and objectives of the proposal**

The aim of simplifying and modernising the regulatory environment in Europe is central to the work of the Commission. Meeting this cross-cutting strategic objective has led the Commission to develop and pursue a far-reaching Better Regulation agenda, with a view to making further progress towards the Lisbon objectives for jobs and growth. It is in this framework that the consolidation and merger of the Directives on railway interoperability are proposed.

National procedures for the approval of locomotives are currently regarded as one of the biggest barriers to the creation of new railway companies in the freight sector and a major obstacle to the interoperability of the European railway system. Since no Member State can decide on its own that the authorisation for placing in service which it issues will be valid on the territory of other Member States, a Community initiative is needed to harmonise national procedures, simplify them and apply more systematically the principle of mutual recognition.

• **Background**

The proposal is part of a wider initiative designed to improve the technical part of the regulatory framework for rail, namely the Railway Interoperability Directives, the Railway Safety Directive and the Agency Regulation.

Firstly, a matter of central importance which still has to be improved in order to facilitate the free movement of trains is the procedure for approving locomotives. According to the manufacturers and the railway companies, often these procedures are still very long and very expensive; in their view, certain requests from the competent authorities have little justification on a purely technical level.

Secondly, as part of the programme for simplifying legislation, the Commission intends to consolidate and merge the Railway Interoperability Directives.

Thirdly, with its ten years' experience of implementing the Interoperability Directives, the Commission has a duty to propose several improvements to the technical part of the regulatory framework.

This proposal concerns the consolidation, recasting and integration of the Railway Interoperability Directives. It should be read with the joint proposals on amending Regulation (EC) No 881/2004 establishing a European Railway Agency (hereinafter referred to as "the Agency") and Directive 2004/49/EC on safety on the Community's railways.

• **Existing provisions in the area of the proposal**

The proposal concerns the recasting and merger of the following Directives:

- 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) as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of

29 September 2003 (OJ L 284 of 31.10.2003, p. 1)

- 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 (OJ L 110, 20.4.2001, p. 1), as corrected by OJ L 334, 18.12.2001, p. 34 (2001/16/EC).

- **Consistency with other policies and objectives of the Union**

Simplification of the procedures for placing rolling stock in service makes rail transport more competitive. By reducing the costs of the transport chain, it contributes to the competitiveness of industry as a whole in the European Union. A dynamic rail sector also reinforces the European railway industry's position as world leader and safeguards jobs in the sector. More competitive rail transport will also contribute to the European Union's basic commitments as regards sustainable development and addressing climate change.

Consequently, this initiative forms part of the revised Growth and Jobs Strategy. Furthermore, it makes it possible to reduce the administrative costs associated with the activities of the national safety authorities.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The Commission prepared a consultative document in 2006 which identified several options and presented it to all the parties concerned (national authorities responsible for railway safety, industry, operators, infrastructure managers, European standardisation bodies, etc.) at a workshop. Written positions were collected from all parties and examined as part of an impact study prepared in accordance with current standards.

Summary of responses and how they have been taken into account

The Commission took account of the different opinions in drawing up its proposal, which pursues a twofold objective: first, to launch work that can be undertaken straightaway without waiting for new legislative provisions to enter into force and, second, to amend the legislation so as to provide a sure legal framework for assigning rights and responsibilities to the parties concerned by the authorisation procedure for placing railway rolling stock in service.

- **Collection and use of expertise**

Scientific/expertise domains concerned

National procedures for the approval of railway rolling stock, national technical and/or safety rules, costs and time limits associated with these procedures, etc.

Methodology used

The Commission guidelines of 15 June 2005 (SEC(2005)791), which were updated in

2006, were used.

Main organisations/experts consulted

The expertise of the European Railway Agency was used in evaluating the various positions expressed by sector stakeholders and in assessing the impact of the various options.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences was not mentioned.

Please refer to the impact assessment.

Means used to make the expert advice publicly available

The impact assessment is published on the Internet.

• **Impact assessment**

Baseline scenario: to restrict ourselves to applying existing legislation and intervening only when complaints are made.

Non-regulatory options: to publish the working group's recommendations on existing cross-acceptance of rolling stock and to ask Member States to apply them, to ask the Agency to classify national rules and to identify equivalences, to ask the Agency to assume an advisory or appellate role in the national approval procedures for placing into service, to speed up the development and review of European standards, to verify that the principle of mutual recognition is being applied properly and, if necessary, to launch infringement proceedings.

Regulatory options: To amend legislation in order to: make it unnecessary for operators to obtain authorisation in each Member State, to clarify the procedure for existing rolling stock, to enable the Agency to issue authorisations for placing in service, to enable the Agency to assume a coordination, advisory and/or appellate role, to enable the bodies responsible for verifying conformity to issue authorisations for placing in service, to enable infrastructure managers to issue authorisations for placing in service.

The Commission has carried out an impact assessment as provided for in its Legislative and Work Programme. The report can be found at http://ec.europa.eu/transport/rail/index_en.html.

3. LEGAL ELEMENTS OF THE PROPOSAL

• **Summary of the proposed action**

It is proposed to simplify the procedure for placing in service. For wagons and passenger carriages placed in service after this Directive has entered into force, a single authorisation for placing in service issued by one Member State of the Community should suffice. In the case of rolling stock placed in service before this Directive enters into force and not bearing an "EC" declaration of verification, it should be made clear

that the Railway Safety Directive applies. In the case of rolling stock bearing an "EC" declaration of verification as provided for in Article 18, the only criteria which a safety authority may check with a view to issuing an authorisation for placing in service should be comprehensively identified. In the case of vehicle series produced from a type, Member States should be allowed to issue batch authorisations for placing in service.

- **Legal basis**

Articles 71 and 156.

- **Subsidiarity principle**

The principle of subsidiarity applies in so far as the proposal does not concern an area in which the Community has exclusive competence.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

This initiative is part of a set of proposals aimed at resolving the problem of rolling stock for which placing in service has been authorised in one Member State but which is not automatically accepted in another Member State. This problem has a transnational dimension which cannot be addressed by a national initiative because no Member State can authorise the placing in service of rolling stock on the territory of another Member State. Moreover, it is for the Commission to put forward proposals concerning simplification of the *acquis communautaire*.

The objectives of the proposal can be better achieved by Community action for the following reasons.

The territoriality principle which applies to authorisations for placing in service is provided for by the Interoperability Directives and the Railway Safety Directive. Furthermore, action taken only at national level cannot achieve the objective of this proposal.

The duration and costs of rolling-stock approval are the most useful indicators of the achievement of the objectives pursued by this proposal.

The amendment of Article 14 of the Interoperability Directives as merged in this proposal makes it possible to specify the part of an authorisation which should be mutually recognised and to simplify the procedure in certain cases. The option of centralising the decision to authorise a placing in service, e.g. in the hands of the Agency, has not been retained; This shows that the proposal has been limited to what Member States cannot achieve by national initiatives.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the principle of proportionality for the following reasons:

It has been drafted with a view to minimising the necessary amendments.

It has virtually no impact on the Commission's operating budget. Only advantages are expected for the competent authorities and the sector itself, since one of the main objectives is to simplify the authorisation procedure for placing in service by eliminating redundant verification processes and reducing regulation.

- **Choice of instruments**

Proposed instrument: directive.

Other instruments would not have been appropriate for the following reasons:

The purpose is to amend a directive.

4. BUDGETARY IMPLICATION

For the Agency, the impact will be less than €2.2 million during the first five years; this will then fall to less than €0.5 million (see the financial statement attached to the proposal).

5. ADDITIONAL INFORMATION

- **Simplification**

The proposal simplifies the administrative procedures applicable to bodies and private individuals.

Rolling stock which has already been authorised for placing in service in one Member State will only have to undergo additional certification in another Member State if there are additional national requirements (for example, because of the characteristics of the local network).

The proposal is included in the Commission's Work and Legislative Programme under the reference 2006/TREN/005.

- **European Economic Area**

This draft instrument concerns a matter covered by the EEA Agreement and should therefore be extended to the European Economic Area.

Detailed explanation of the proposal by chapter or by article

1. Description of the geographical scope and extension of the scope (Article 1)

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 comes into force, its scope will cover conventional and high-speed European networks

as defined in the Community guidelines for trans-European transport networks, and the rolling stock likely to travel on those networks. The scope will be progressively extended to the whole network and all rolling stock, provided that an impact assessment shows the economic benefit of so doing.

Article 1(3) is amended to clarify the procedure to be followed for this extension:

First, the Agency carries out an impact assessment and identifies the new TSIs which should be developed, or the existing ones which should be amended, to cover the lines and rolling stock not yet covered by existing TSIs.

Second, the Commission adopts a mandate on the basis of the Agency's recommendation and after receiving the opinion of the Committee.

The expanded scope requires minor drafting changes throughout the Directive.

2. Definitions (Article 2)

The definition of basic parameter has been amended, as has Article 6(3), to do away with the provision requiring a Commission decision; experience has shown that such a decision is not warranted, since the specification of parameters requires an economic assessment, which cannot be complete while the strategy for implementing the TSI in question has not been worked out.

Three new definitions are proposed:

"contracting entity" was not defined; this question was deliberated by the Committee, which agreed on greater flexibility concerning the entity which can launch the "EC" verification procedure or request an authorisation for placing in service;

"keeper", which is cited in the preceding definition and which is the subject of the joint proposal amending the Railway Safety Directive;

"project at an advanced stage of development".

3. Derogations

The application of Article 7 on derogations has been discussed on numerous occasions by the Committee set up under Article 21 of Directive 96/48/EC. Recommendations have been prepared, in particular with regard to:

the definition of a project "at an advanced stage of development", i.e. one which qualifies for the "automatic" derogation procedure without a decision by the Commission;

the contents of the file to be notified to the Commission so that it can check whether such a derogation is justified.

4. Transition period for interoperability constituents (Article 10 – new paragraph 5)

When a TSI comes into force, a number of interoperability constituents are already being manufactured. 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 the said TSI.

5. Technical annexes of TSIs (Article 6)

The adoption of certain TSIs relating to high speed and to conventional rail has proved to be a very long procedure on account of the need to translate the voluminous technical annexes. The annexes, given their technical nature, are likely to change quickly, especially in the field of information and telecommunications systems. This is the case, for example, with TSIs for control and command and signalling subsystems, and for telematic applications for freight and passengers. A new paragraph is proposed which will make it possible to decide in such cases that one or more technical annexes can be published by the Agency.

6. Checking the requirements relating to operation and maintenance after placing in service (Article 14(2))

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 the Railway Safety Directive, responsibility for meeting these requirements lies, for their respective subsystems, with the infrastructure manager or the railway company. 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.

7. Procedure for placing rolling stock in service (Article 14)

As far as rolling stock is concerned, it is not economically viable to require an authorisation for placing in service in each Member State for each vehicle. It is therefore necessary to simplify the procedure for placing in service.

8. Specific cases and national rules (Article 16(3))

The interpretation of this point was also discussed by the Committee. It was agreed that if the specific case identified in the TSI involves national technical rules, these should be notified to the Commission in the same way as rules applicable in the case of derogations or when TSIs contain "open points".

9. Urgent amendment of a TSI (Article 17)

The procedure for reviewing a TSI can last several months: adoption by the Commission of a mandate for the Agency; preparation of a project by the Agency; assessment by the Commission; preparation of a Commission decision; opinion of the Committee; translation; Commission's internal procedure; adoption and notification to the Member States. The question was discussed in the Committee, and agreement was reached on the fact that a quicker procedure was needed for urgent cases. It is therefore proposed that, in such cases, a Technical Opinion should be requested from the Agency and that the Commission should decide if that Technical Opinion can be used pending the review of the TSI.

10. Certificate for intermediate verifications (Article 18)

This was the subject of a proposal for the amendment of Annex VI, submitted to the Committee for opinion under the regulatory procedure in June 2006. The amendment makes it possible to acknowledge that the procedure for verifying a subsystem has several stages, and that the possibility of issuing such certificates creates flexibility, which is necessary in markets of this kind.

11. Work programme (Article 23)

This Article has to be updated in the light of the TSIs already adopted.

12. Infrastructure and rolling-stock registers (Article 24)

The work done by the Agency in 2005 and 2006 on preparing the specifications of the national vehicles register provided for by Article 14(3) showed that it is necessary to clarify the scope of the various registers, their contents, interconnection and how they are used by the various players: national safety authority, infrastructure managers, railway companies, keepers, manufacturers, etc. It is proposed to prepare guidelines and, if necessary, adopt them formally.

↓ 2004/50/EC Art. 2(1) (adapted)

**DIRECTIVE ~~2001/16/EC~~ OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

of ~~19 March 2001~~

~~on the interoperability of the conventional rail system~~

↓ 96/48/EC (adapted)

~~COUNCIL DIRECTIVE 96/48/EC~~

~~of 23 July 1996~~

on the interoperability of the Community ~~trans-European high-speed~~ rail system

↓ 2001/16/EC (adapted)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure referred to in Article 251 of the Treaty⁴,

Whereas:

¹ OJ C ~~89 E~~, 28.3.2000, p. 14.

² OJ C ~~204~~, 18.07.2000, p. 13.

³ OJ C ~~317~~, 06.11.2000, p. 22.

⁴ ~~Opinion of the European Parliament of 17 May 2000 (OJ C 59, 23.2.2001, p. 106), Council Common Position of 10 November 2000 (OJ C 23, 24.1.2001, p. 15) and Decision of the European Parliament of 13 February 2001.~~

↓ new

- (1) Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system⁵ 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 system⁶ were substantially amended in 2004. When introducing new amendments, it is appropriate to recast the Directives for the sake of clarity and bring their provisions together in a single instrument with a view to simplification.
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↓ 96/48/EC recital 1 (adapted)

- (2) ~~Acting in accordance with the procedure laid down in Article 189c, Whereas 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 establishing an area without internal frontiers, it is advisable, in particular, to improve the interlinking and interoperability of national high-speed train networks, as well as access thereto;~~
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↓ 2001/16/EC recital 1

- (3) 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.
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↓ 2001/16/EC recital 2

- (4) By signing the Protocol adopted in Kyoto on 12 December 1997 the European Union has undertaken to reduce its 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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↓ 2001/16/EC recital 3

- (5) The Council strategy for the integration of the environment and sustainable development into Community transport policy highlights the need to act to reduce the environmental impact of transport.

⁵ OJ L 235, 17.9.1996, p. 6. Directive as last amended by Directive 2004/50/EC of the European Parliament and of the Council (OJ L 164, 30.4.2004, p. 114).

⁶ OJ L 110, 20.4.2001, p. 1. Directive as last amended by Directive 2004/50/EC.

↓ 96/48/EC recital 2 (adapted)

- (6) ~~Whereas a high-level working party consisting of representatives of the governments of the Member States, of the European railways and of the European railway industry convened by the Commission in order to meet the request expressed by the Council in its resolution of 4 and 5 December 1989 drew up the master plan for a European high-speed train network;~~
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↓ 96/48/EC recital 3 (adapted)

- (7) ~~Whereas in December 1990 the Commission sent to the Council a communication on the high-speed train network, and whereas the Council gave a favourable reception to that communication in its resolution of 17 December 1990⁷;~~
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↓ 96/48/EC recital 4 (adapted)

- (8) ~~Whereas Article 129e of the Treaty provides that the Community shall implement any measures that may prove necessary to ensure network interoperability, in particular in the field of technical standardization;~~
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↓ 96/48/EC recital 5 (adapted)

- (9) ~~Whereas the commercial operation of high-speed trains requires excellent compatibility between the characteristics of the infrastructure and those of the rolling stock; whereas performance levels, safety, quality of service and cost depend upon such compatibility as does, in particular, the interoperability of the European high-speed rail system;~~
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↓ 96/48/EC recital 9 (adapted)

- (10) ~~Whereas national regulations and the railways' internal rules and the technical specifications which the railways apply contain major differences; whereas those national regulations and internal rules incorporate techniques that are specific to the national industries; whereas they prescribe specific dimensions and devices and special characteristics; whereas this situation runs counter to high-speed trains being able to run normally throughout Community territory;~~
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↓ 96/48/EC recital 10 (adapted)

- (11) ~~Whereas, 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 contracts; whereas, in order to enhance their competitiveness at world level those industries require an open, competitive European market;~~
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⁷ JO n°C 33 du 8. 2. 1991, p. 1.

↓ 2001/16/EC recital 4 (adapted)

- (12) The commercial operation of trains throughout the ~~trans-European~~ rail network requires in particular excellent compatibility between the characteristics of the infrastructure and those of the rolling stock, as well as efficient interconnection of the information and communication systems of the different infrastructure managers and operators. Performance levels, safety, quality of service and cost depend upon such compatibility and interconnection, as does, in particular, the interoperability of the ~~trans-European conventional~~ rail system.
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↓ 2001/16/EC recital 13

- (13) 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.
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↓ 2001/16/EC recital 14

- (14) There are major differences in the national regulations and 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.
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↓ 2001/16/EC recital 15

- (15) 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.
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↓ 2001/16/EC recital 16 (adapted)

- (16) It is therefore appropriate to define basic essential requirements for the whole of the Community which will apply to the ~~trans-European conventional~~ rail system.
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↓ 96/48/EC recital 11 (adapted)

- (17) ~~Whereas it is therefore appropriate to define essential requirements for the whole of the Community which will apply to the trans-European high-speed train system;~~

↓ 96/48/EC recital 6 (adapted)

- (18) ~~Whereas pursuant to Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways⁸ railway companies must have increased access to the rail networks of the Member States, which in turn requires infrastructure, equipment and rolling stock interoperability;~~
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↓ 96/48/EC recital 7 (adapted)

- (19) ~~Whereas the 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, placing in service and operation of those railways; whereas, together with the local authorities, they also have responsibilities in respect of rights in land, regional planning and environmental protection; whereas that is also especially pertinent with regard to high-speed train networks;~~
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↓ 96/48/EC recital 8 (adapted)

- (20) ~~Whereas Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁹ requires an assessment of the impact on the environment of the construction of lines for long-distance rail traffic;~~
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↓ 96/48/EC recital 12 (adapted)

- (21) ~~Whereas, in view of the extent and complexity of the trans-European high-speed rail system, it has proved necessary for practical reasons to break it down into subsystems; whereas for each of those subsystems the essential requirements must be specified, the basic parameters laid down and the technical specifications determined for the whole of the Community, particularly in respect of constituents and interfaces, in order to meet those essential requirements; whereas, however, certain subsystems (environment, users and operation) will be subject to technical specifications for interoperability (TSIs) only in so far as is necessary to ensure interoperability in the fields of infrastructure, energy, control and command and signalling and rolling stock;~~
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↓ 96/48/EC recital 13 (adapted)

- (22) ~~Whereas the introduction of provisions on the interoperability of the trans-European high-speed rail system must not create unjustified cost-benefit barriers to the preservation of the existing rail network of each Member State, but must endeavour to maintain the objective of the circulation of high-speed trains throughout the Community;~~

⁸ JO n° C 237 du 24. 8. 1991, p. 25.

⁹ JO n° C 175 du 5. 7. 1985, p. 40.

↓ 96/48/EC recital 14 (adapted)

- (23) ~~Whereas individual Member States should be allowed not to apply certain technical specifications for interoperability in specific cases, provided that there are procedures to ensure that such possibilities for derogation are justified; whereas Article 129e of the Treaty requires the Community's activities in the area of interoperability to take into account the potential economic viability of projects;~~
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↓ 96/48/EC recital 15 (adapted)

- (24) ~~Whereas in order to comply with the appropriate provisions on government procurement procedures in the rail sector and in particular Directive 93/38/EEC¹⁰; contracting entities must include technical specifications in the general documents or the contract documents relating to each contract; whereas it is necessary to build up a body of European specifications to serve as references for those technical specifications;~~
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↓ 96/48/EC recital 16 (adapted)

- (25) ~~Whereas, within the meaning of Directive 93/38/EEC, a European specification is a common technical specification, a European technical approval or a national standard implementing a European standard; whereas harmonized European standards are to be drawn up by a European standardization body such as the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) or the European Telecommunications Standards Institute (ETSI), to the order of the Commission, and their references published in the Official Journal of the European Communities;~~
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↓ 96/48/EC recital 17 (adapted)

- (26) ~~Whereas it would be in the Community's interests for there to be an international system of standardization capable of generating standards which are actually used by those involved in international trade and which meet the requirements of Community policy; whereas the European standardization bodies must therefore continue their cooperation with the international standardization bodies;~~
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↓ 96/48/EC recital 18 (adapted)

- (27) ~~Whereas contracting entities define such further requirements as are necessary to complete European specifications or other standards; whereas those specifications must not prevent the essential requirements that have been harmonized at Community level and which the trans-European high-speed train system must satisfy, from being met;~~
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¹⁰ Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 199, 9.8.1993, p. 9). 8. 1993, p. 84), telle que modifiée par l'acte d'adhésion de 1994.

↓ 96/48/EC recital 19 (adapted)

- (28) ~~Whereas the procedures governing the assessment of conformity or of suitability of use of constituents must be based on the use of the modules covered by Decision 93/465/EEC¹¹; whereas, as far as possible and in order to promote the development of the industries concerned, it is appropriate to expand the procedures involving a system of quality assurance; whereas the notion of constituent covers both tangible objects and intangible objects such as software;~~
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↓ 96/48/EC recital 20 (adapted)

- (29) ~~Whereas the suitability for use of the most critical constituents as regards safety, availability or system economy should be assessed;~~
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↓ 96/48/EC recital 21 (adapted)

- (30) ~~Whereas in their contract documents, contracting entities, lay down, in particular for constituents, by reference to the European specifications, the characteristics which must be met, in contractual terms, by the manufacturers; whereas, this being the case, constituent conformity is mainly linked to their area of use in order to ensure and guarantee the interoperability of the system, and not only to their free movement on the Community market;~~
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↓ 96/48/EC recital 22 (adapted)

- (31) ~~Whereas it is therefore not necessary for a manufacturer to affix the CE mark to constituents that are subject to the provisions of this Directive as, on the basis of the assessment of conformity and/or suitability for use conducted in accordance with the procedures provided for that purpose in the Directive, the manufacturer's declaration of conformity is sufficient; whereas that does not affect the obligation on manufacturers to affix the CE mark to certain components in order to certify their compliance with other Community provisions relating to them;~~
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↓ 96/48/EC recital 23 (adapted)

- (32) ~~Whereas the subsystems constituting the trans-European high-speed rail system must be subjected to a verification procedure; whereas that verification must enable the authorities responsible for authorizing their placing in service to be assured that at the stages of design, construction and placing in service the result is in line with the regulations and technical operational provisions in force; whereas that must also enable manufacturers to be able to count upon equality of treatment whatever the country; whereas it is therefore necessary to lay down a module defining the principles and conditions applying to EC verification of subsystems;~~
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¹¹ ~~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. 30). 8: 1993, p. 23.~~

↓ 96/48/EC recital 24 (adapted)

- (33) ~~Whereas the EC verification procedure is based on TSIs; whereas those TSIs are drawn up to the order of the Commission by the joint body representing the infrastructure managers, the railway companies and the industry; whereas the reference to TSIs is required in order to ensure interoperability of the trans-European high-speed rail system and whereas those TSIs are subject to the provisions of Article 18 of Directive 93/38/EEC;~~
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↓ 96/48/EC recital 25 (adapted)

- (34) ~~Whereas the notified bodies responsible for examining the conformity assessment procedures or that applying to the use of constituents, together with the procedure for the assessment of subsystems must, particularly in the absence of any European specification, coordinate their decisions as closely as possible;~~
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↓ 96/48/EC recital 26 (adapted)

- (35) ~~Whereas Council Directive 91/440/EEC requires a separation of activities, in accounting terms, between transport service operation and those concerning railway infrastructure management; whereas, this being the case, the specialized services provided by the railway infrastructure managers designated as notified bodies should be structured in such a way as to meet the criteria which must apply to this type of body; whereas other specialized bodies may be notified where these meet the same criteria;~~
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↓ 96/48/EC recital 27 (adapted)

- (36) ~~Whereas interoperability within the trans-European high-speed train system is Community wide in scale; whereas the Member States are unable, on an individual basis, to take the action needed in order to achieve that interoperability; whereas it is therefore necessary, pursuant to the principle of subsidiarity, for this action to be taken at Community level;~~
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↓ 2001/16/EC recital 5 (adapted)

- (37) To achieve these objectives an initial measure was taken by the Council on 23 July 1996 with the adoption of Directive 96/48/EC concerning the interoperability of the trans-European high-speed rail system¹². ☒ The European Parliament and the Council subsequently adopted Directive 2001/16/EC on the interoperability of the trans-European conventional rail system. ☒

¹² OJ L 235, 17.09.1996, p. 6.

↓ 2004/50 recital 7

- (38) 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, 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 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 has 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.
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↓ 2004/50 recital 10

- (39) The development of TSIs in the high-speed sector has shown the need to clarify the relation 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 should be drawn between the standards or parts of standards which must be made mandatory in order to achieve the objectives of that Directive, and the «harmonised» standards that have been developed in the spirit of the new approach to technical harmonisation and standardisation.
-

↓ 2004/50 recital 11

- (40) 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 Directive 96/48/EC, 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.
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↓ 2004/50 recital 12

- (41) 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.

↓ 2004/50 recital 13

- (42) The 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.
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↓ 2004/50 recital 14

- (43) 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.
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↓ 2004/50 recital 15

- (44) 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 those already notified under Article 20 of Directives 96/48/EC and 2001/16/EC.
-

↓ new

- (45) The distinction between a high-speed rail system and a conventional rail system does not warrant two separate directives. The procedures for developing technical specifications for interoperability are the same for 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 for both systems¹³. It is therefore appropriate to combine Directives 96/48/EC and 2001/16/EC.
- (46) 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 comes into force, its scope will cover conventional and high-speed European networks as defined in the Community guidelines for trans-European transport networks¹⁴, and the rolling stock likely to travel on those networks. The scope will be progressively

¹³ See the conclusions of the Commission report to the Council and the European Parliament adopted on ...

¹⁴ TEN Guidelines 1996 ...

extended to the whole network and all rolling stock, provided that an impact assessment shows the economic benefit of so doing.

↓ 2001/16/EC recital 6 (adapted)

- (47) ~~In its White Paper entitled «A strategy for revitalising the Community's railways» in 1996, the Commission announced a second measure in the conventional rail sector and then ordered a study on the integration of national rail systems, the results of which were published in May 1998 with the recommendation of the adoption of a Directive based on the approach taken in the high-speed sector. This study also recommended that, rather than tackling all the obstacles to interoperability head on, problems should be solved gradually according to an order of priority based on the cost-benefit ratio of each proposed measure. In this study the harmonisation of procedures and rules in use and the interconnection of information and communication systems were shown to be more effective than measures, for example, concerning the infrastructure loading gauge.~~
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↓ 2001/16/EC recital 7 (adapted)

- (48) ~~The Commission communication on «Integration of conventional rail systems» recommends the adoption of this Directive and justifies the similarities and main differences compared with Directive 96/48/EC. The main differences lie in the adaptation of the geographical scope, in the extension of the technical scope to take account of the results of the above study and in the adoption of a gradual approach to eliminating obstacles to the interoperability of the rail system, which includes establishing an order of priorities and a timetable for drawing it up.~~
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↓ 2001/16/EC recital 8

- (49) In view of that gradual approach and of the time consequently required for the adoption of all the technical specifications for interoperability (TSIs), steps should be taken to avoid a situation where Member States adopt new national rules or undertake projects that increase the heterogeneity of the present system.
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↓ 2001/16/EC recital 9 (adapted)

- (50) The adoption of a gradual approach satisfies the special needs of the objective of interoperability of the ~~conventional~~ rail system, which is characterised by old national infrastructure and stock 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.
-

↓ 2001/16/EC recital 10

- (51) In its Resolution of 10 March 1999 on the rail package the Parliament asked that the progressive opening up of the rail sector go hand-in-hand with the fastest and most effective possible technical harmonisation measures.

↓ 2001/16/EC recital 11

- (52) The Council 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 as well as personnel training and qualifications.
-

↓ 2001/16/EC recital 12

- (53) Pursuant to Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways¹⁵, 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.
-

↓ 2001/16/EC recital 17 (adapted)

- (54) In view of the extent and complexity of the ~~trans-European conventional~~ rail system, it has proved necessary, for practical reasons, to break this down into subsystems. 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.
-

↓ 2001/16/EC recital 18 (adapted)

- (55) Implementation of the provisions on the interoperability of the ~~trans-European conventional~~ 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.
-

↓ 2001/16/EC recital 19

- (56) The technical specifications for interoperability 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.

¹⁵ OJ L 237, 24.8.1991, p. 25.

↓ 2001/16/EC recital 20

- (57) Each Member State concerned should be allowed not to apply certain technical specifications for interoperability 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.
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↓ 2001/16/EC recital 21 (adapted)

- (58) The drawing up of TSIs and their application to the ~~conventional~~ rail system should not impede technological innovation, which should be directed towards improving economic performance.
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↓ 2001/16/EC recital 22 (adapted)

- (59) Advantage should be taken of the interoperability of the ~~conventional~~ rail system, particularly in the case of freight, to bring about the conditions for greater interoperability between modes of transport.
-

↓ 2001/16/EC recital 23

- (60) To comply with the appropriate provisions on procurement procedures in the rail sector and in particular Directive 93/38/EEC¹⁶, 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.
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↓ 2001/16/EC recital 24

- (61) 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.
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↓ 2001/16/EC recital 25 (adapted)

- (62) The contracting entities are to define the further requirements needed to complete European specifications or other standards. These specifications should meet the essential requirements that have been harmonised at Community level and which the ~~trans-European conventional~~ rail system must satisfy.

¹⁶ Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 199, 9.8.1993, p. 84). Directive as last amended by Directive 98/4/EC (OJ L 101, 1.4.1998, p. 1).

↓ 2001/16/EC recital 26

- (63) 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 Decision 93/465/EEC¹⁷. 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.
-

↓ 2001/16/EC recital 27

- (64) 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 now 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.
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↓ 2001/16/EC recital 28

- (65) That does not affect the obligation on manufacturers to affix the CE marking to certain components in order to certify their compliance with other Community provisions relating to them.
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↓ new

- (66) When a TSI comes 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 the said TSI.
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↓ 2001/16/EC recital 29 (adapted)
⇒ new

- (67) The subsystems constituting the ~~trans-European conventional~~ rail system should be subjected to a verification procedure. This verification must enable the authorities responsible for authorising their putting into 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 ~~a module~~ ⇒ one or more modules ⇐ defining the principles and conditions applying to «EC» verification of subsystems.

¹⁷ 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).

↓ new

- (68) 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 the Railway Safety Directive, responsibility for meeting these requirements lies, for their respective subsystems, with the infrastructure manager or the railway company. 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.
- (69) As far as rolling stock is concerned, it is not economically viable to require an authorisation for placing in service in each Member State for each vehicle. It is therefore necessary to simplify the procedure for placing in service. For wagons and passenger carriages placed in service after this Directive has entered into force, a single authorisation for placing in service issued by one Member State of the Community should suffice. In the case of rolling stock placed in service before this Directive enters into force and not bearing an "EC" declaration of verification, it should be made clear that the Railway Safety Directive applies. In the case of rolling stock bearing an "EC" declaration of verification as provided for in Article 18, the only criteria which a safety authority may check with a view to issuing an authorisation for placing in service should be comprehensively identified. In the case of vehicle series produced from a type, Member States should be allowed to issue batch authorisations for placing in service.

↓ 2001/16/EC recital 30

- (70) 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.

↓ 2001/16/EC recital 31 (adapted)

- (71) ~~These TSIs are drawn up to the order of the Commission by the joint body representing the infrastructure managers, the railway companies and the industry. Representatives of non-member countries, in particular those of the applicant countries, may from the outset be authorised to attend meetings of the joint representative body as observers.~~

↓ 2001/16/EC recital 32 (adapted)

⇒ new

- (72) ~~Directive 91/440/EEC requires a separation of activities, in accounting terms, between transport service operation and railway infrastructure management. This being the case, the specialised services provided by railway infrastructure managers designated as 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 ↵. ~~Other specialised bodies may be notified where these meet the same criteria.~~

↓ 2001/16/EC recital 33

⇒ new

- (73) 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 Commission¹⁸.
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↓ new

- (74) In particular, the Commission should be authorised to adopt and update the TSIs. Since these measures are general in scope and are designed to supplement this Directive by adding new, non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
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↓ 2001/16/EC recital 34 (adapted)

- (75) Interoperability within the ~~trans-European conventional~~ rail system is Community-wide in scale. No individual Member State is in a position to take the action needed in order to achieve this interoperability. In accordance with the principle of subsidiarity, the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore by reason of the scale or effects of the proposed action be better achieved by the Community.
-

↓ new

- (76) 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.

¹⁸ OJ L 184, 17.7.1999, p. 23.

↓ 2001/16/EC

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER ONE

GENERAL PROVISIONS

Article 1

↓ 2004/50/EC Art. 2(2)(a)
(adapted)
⇒ new

1. This Directive sets out to establish the conditions to be met to achieve interoperability within the Community territory of the ~~trans-European conventional~~ rail system, ~~as described in Annex I~~. These conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of this system placed in service after the date of entry into force of this Directive, as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance. ⇒ They also concern the existing rail system within the limits specified in the relevant Articles, in particular Articles 14(3) and 24 on registers. ⇐

↓ 2004/50/EC Art. 1(1)

~~These conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of this system placed in service after 30 April 2004, as well as the qualifications and health and safety conditions of the staff who contribute to its operation.~~

↓ 2004/50/EC Art. 1(1) and Art. 2(2)(b)

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

↓ 2001/16/EC

(a) facilitate, improve and develop international rail transport services within the European Union and with third countries;

↓ 2004/50/EC Art. 1(1) (adapted)

~~(b) contribute to the gradual creation of the internal market in equipment and services for the construction, operation, renewal and upgrading of the trans-European high-speed rail system;~~

↓ 2001/16/EC (adapted)

(b) contribute to the progressive creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the trans-European ~~conventional~~ rail system;

(c) contribute to the interoperability of the trans-European ~~conventional~~ rail system.

↓ 2004/50/EC Art. 2(2)(c)
(adapted)
⇒ new

3. The scope of this Directive shall be progressively extended to the whole ~~conventional~~ rail system, including track access to terminals and main port facilities serving or potentially serving more than one user, except for infrastructure and rolling stock reserved for a strictly local, historical or touristic use or infrastructure which is functionally isolated from the rest of the rail system, and without prejudice to the derogations to the application of TSIs as listed in Article 7.

⇒ Outside the trans-European rail system, ⇨ ~~This Directive shall be applied to the parts of the network which are not yet covered by paragraph 1~~ only from the date of entry into force of the corresponding ⇨ relevant ⇨ TSIs to be adopted in accordance with the procedure described below and for the fields of application set by them.

The Commission shall adopt, following the procedure set out in Article 21(~~2~~) ⇨ (3), ⇨ ~~by 1 January 2006 a work programme~~ ⇨ one or more mandates ⇨ aiming at the development of new TSIs and/or the review of TSIs already adopted with a view to covering the lines and rolling stock not yet covered.

~~This work programme~~ ⇨ The first mandate ⇨ shall indicate a first group of new TSIs and/or amendments to TSIs to be adopted by January ~~2009~~ ⇨ 2012 ⇨, without prejudice to Article 5(5) as regards the possibility of providing for specific cases and without prejudice to Article 7 allowing for derogations in particular circumstances. ~~The choice of the subjects to be covered by the TSIs will be~~ ⇨ This first mandate shall be drawn up on the basis of a recommendation from the Agency with a view to determining the new TSIs to be developed and/or the existing ones to be amended ⇨ in the light of the expected cost-effectiveness of each proposed measure and on the principle of proportionality of measures taken at Community level. To this end, appropriate consideration will be given to Annex I point 4 and the necessary balance between, on one hand, the objectives of uninterrupted movement of trains and of technical harmonisation, and, on the other hand, the trans-European, national, regional or local level of traffic considered.

After ~~the development of this first group of TSIs~~ ⇨ this first mandate, ⇨ the priorities for the development of new TSIs and/or the review of existing TSIs will be determined ⇨ by means of mandates adopted ⇨ following the procedure set out in Article 21(~~2~~) ⇨ (3) ⇨ .

A Member State need not apply this paragraph in the case of projects at an advanced stage of development or subject to a contract in the course of performance when the relevant group of TSIs are published.

↓ 2001/16/EC and 96/48/EC

Article 2

For the purposes of this Directive:

↓ 2001/16/EC (adapted)

- (a) «~~trans-European conventional~~ rail system» means the structure, as described in Annex I, points 1 and 2, composed of lines and fixed installations, of the trans-European transport network, built or upgraded for conventional rail transport and combined rail transport ☒ or to be covered at high speed ☒ , plus the rolling stock designed to travel on that infrastructure;
- (b) "interoperability" means the ability of the ~~trans-European conventional~~ rail system to allow the safe and uninterrupted movement of trains which accomplish the required levels of performance for these lines. This ability rests on all the regulatory, technical and operational conditions which must be met in order to satisfy the essential requirements;
- (c) «subsystems» means the result of the division of the ~~trans-European conventional~~ rail system, as shown in Annex II. These subsystems, for which essential requirements must be laid down, are structural and functional;
- (d) «interoperability constituents» means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem upon which the interoperability of the ~~trans-European conventional~~ rail system depends directly or indirectly. The concept of a «constituent» covers both tangible objects and intangible objects such as software;
- (e) «essential requirements» means all the conditions set out in Annex III which must be met by the ~~trans-European conventional~~ rail system, the subsystems, and the interoperability constituents including interfaces;
-

↓ 96/48/EC and 2001/16/EC

- (f) «European specification» means a common technical specification, a European technical approval or a national standard transposing a European standard, as defined in points 8 to 12 of Article 1 of Directive 93/38/EEC;
-

↓ 96/48/EC (adapted)

- ~~(g) «technical specifications for interoperability», hereinafter referred to as «TSIs»,~~
(g) technical specifications for interoperability (hereinafter TSIs) means the specifications by which each subsystem is covered in order to meet the essential requirements by establishing the necessary reciprocal functional relations between the subsystems of the trans-European high-speed rail system and by ensuring the latter's compatibility;

↓ 2001/16/EC (adapted)

(g) «technical specifications for interoperability», hereinafter referred to as «TSIs», means the specifications by which each subsystem or part subsystem is covered in order to meet the essential requirements and ensure the interoperability of the ~~trans-European conventional~~ rail system;

↓ 96/48/EC and 2001/16/EC

(i) «notified bodies» means the bodies which are responsible for assessing the conformity or suitability for use of the interoperability constituents or for appraising the «EC» procedure for verification of the subsystems;

↓ 2001/16/EC (adapted)
⇒ new

(j) «basic parameters» means any regulatory, technical or operational condition which is critical to interoperability and ~~⇒ has to be specified in the TSIs~~ ~~← requires a decision in accordance with the procedure laid down in Article 21(2) before any development of draft TSIs by the joint representative body;~~

(k) «specific case» means any part of the ~~trans-European conventional~~ 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 and rolling stock strictly intended for local, regional or historical use, as well as rolling stock originating from or destined for third countries, as long as this stock does not cross the border between two Member States;

↓ 2004/50/EC Art. 1(2) and Art. 2(3)(b)

(l) «upgrading» means any major modification work on a subsystem or part subsystem which improves the overall performance of the subsystem;

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

↓ 2001/16/EC and 2004/50/EC Art. 1(2)

(n) «existing rail system» means the structure composed of lines and fixed installations of the existing rail system plus the rolling stock of all categories and origin travelling on that infrastructure;

↓ 2004/50/EC Art. 1(2) and Art. 2(3)(c)

- (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) «placing in service» means all the operations by which a subsystem is put into its design operating state.
-

↓ new

- (q) "contracting entity" any company, whether public or private, which orders the design and/or construction of a subsystem under certain conditions of transparency and competition. Depending on the subsystem to be built or modified, it can be a railway company, an infrastructure manager or a keeper, or the concession holder responsible for carrying out a project.
- (r) "keeper" means the person, who being the owner or having the right to dispose of it, exploits a vehicle economically in a permanent manner as a means of transport;
- (s) "project at an advanced stage of development" means any project which has been the subject of a financing decision and whose design/construction stage has reached a point where a change in the technical specifications would be unacceptable. Such an impediment may be contractual, economic, social or environmental in nature and must be duly substantiated.
- (t) "harmonised standard" means any European standard adopted by one of the European standardisation bodies listed in Annex I to Directive 98/34/EC in connection with a mandate by the Commission drawn up in accordance with the procedure referred to in Article 6(3) of the said Directive, which, by itself or together with other standards, provides a solution as regards compliance with a legal provision.
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↓ 2001/16/EC (adapted)

Article 3

1. This Directive applies to the provisions concerning, for each subsystem, the interoperability constituents, the interfaces and procedures as well as the conditions of overall compatibility of the ~~trans-European conventional~~ rail system required to achieve its interoperability.

↓ 96/48/EC (adapted)

~~1. This Directive applies to the provisions concerning, for each subsystem, the parameters, interoperability constituents, interfaces and procedures as well as the conditions for the overall compatibility of the trans-European high-speed rail system required to achieve its interoperability.~~

↓ 2001/16/EC (adapted)

2. The provisions of this Directive shall apply without prejudice to any other relevant Community provisions. However, in the case of interoperability constituents, including interfaces, compliance with the essential requirements of this Directive may require the use of individual European specifications drawn up for that purpose.

Article 4

1. The ~~trans-European conventional~~ rail system, subsystems and interoperability constituents including interfaces shall meet the relevant essential requirements.

↓ 96/48/EC and 2001/16/EC

2. The further technical specifications referred to in Article 18(4) of Directive 93/38/EEC which are necessary to complete European specifications or other standards in use within the Community must not conflict with the essential requirements.

CHAPTER II

TECHNICAL SPECIFICATIONS FOR INTEROPERABILITY

Article 5

↓ 2004/50/EC Art. 1(4)(a) and
Art. 2(4)(a) (adapted)

1. Each of the subsystems shall be covered by one TSI. Where necessary, a subsystem may be covered by several TSIs and one TSI may cover several subsystems. The decision to develop or to ~~review~~ revise a TSI and the choice of its technical and geographical scope requires a mandate in accordance with Article 6(1).

↓ 2001/16/EC

2. Subsystems shall comply with the TSIs; this compliance shall be permanently maintained while each subsystem is in use.

↓ 2001/16/EC and 2004/50/EC
Art. 1(4)(b)

3. To the extent necessary in order to achieve the objectives referred to in Article 1, each TSI shall:

- (a) indicate its intended scope (part of network or rolling stock referred to in Annex I: subsystem or part of subsystem referred to in Annex II);

(b) lay down essential requirements for each subsystem concerned and its interfaces vis-à-vis other subsystems;

↓ 2001/16/EC (adapted)

(c) establish the functional and technical specifications to be met by the subsystem and its interfaces vis-à-vis other subsystems. If need be, these specifications may vary according to the use of the subsystem, for example according to the categories of line, hub and/or rolling stock provided for in Annex I;

(d) determine the interoperability constituents and interfaces which must be covered by European specifications, including European standards, which are necessary to achieve interoperability within the ~~trans-European conventional~~ rail system;

↓ 2004/50/EC Art. 1(4)(b) and Art. 2(4)(b)

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

↓ 2001/16/EC (adapted)

(f) indicate the strategy for implementing the TSIs. In particular, it is necessary to specify 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;

(g) 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.

4. Each TSI shall be drawn up on the basis of an examination of an existing subsystem and indicate a target subsystem that may be obtained gradually within a reasonable time-scale. Accordingly, the gradual adoption of the TSIs and compliance therewith will help gradually to achieve the interoperability of the ~~trans-European conventional~~ rail system.

5. The TSIs shall retain, in an appropriate manner, the compatibility of the existing rail system of each Member State. With this objective, provision may be made for specific cases for each set of TSIs, with regard to both infrastructure and rolling stock; special attention must be given to the loading gauge, the track gauge or space between the tracks and wagons from or going to third countries. For each specific case, the TSIs stipulate the implementing rules of the elements of the TSIs indicated in paragraphs 3(c) to (g).

6. The TSIs shall not be an impediment to decisions by the Member States concerning the use of infrastructures for the movement of rolling stock not covered by the TSIs.

↓ 96/48/EC (adapted)

~~4. The TSIs shall not be an impediment to decisions by the Member States concerning the use of new or upgraded infrastructures for running other trains.~~

~~5. Compliance with all the TSIs shall enable a compatible trans-European high-speed rail system to be set up that will preserve, as appropriate, the compatibility of each Member State's existing rail network.~~

↓ 2004/50/EC Art. 1(4)(c) and Art. 2(4)(c)
⇒ new

7. TSIs may make an explicit, clearly identified reference to European or ⇒ international ⇐ 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 ⇒ such ⇐ ~~European~~ standards or specifications and pending their development, reference may be made to other clearly identified normative documents; in such case, this shall concern documents that are easily accessible and in the public domain.

↓ 2004/50/EC Art. 1(5) and Art. 2(5) (adapted)
⇒ new

Article 6

1. Draft TSIs and subsequent amendments to TSIs shall be drafted ⇒ by the Agency ⇐ under a mandate from the Commission in accordance with the procedure set out in Article 21(2) ⇒ (3) ⇐ . They shall be drafted ~~under the responsibility of the Agency~~ in accordance with Articles 3 and 12 of Regulation(EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (Agency Regulation)¹⁹ and in cooperation with the working parties mentioned in those Articles.

⇒ The measures amending the non-essential elements of this Directive by supplementing it with TSIs shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(4). ⇐

TSIs shall be adopted and reviewed in accordance with the ⇒ same ⇐ procedure ~~set out in Article 21(2)~~. They shall be published by the Commission in the Official Journal of the European Union.

¹⁹ OJ L 164, 30.4.2004, p. 1.

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~~ ⇒ Commission ⇐ in order to take account of developments in technology or social requirements. ⇒ The Commission shall inform the Committee referred to in Article 21 about this ⇐ .

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

First of all, the Agency shall identify the basic parameters for the 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.

4. 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.

5. The Committee referred to in Article 21 shall be kept regularly informed of the preparatory work on the TSIs. During this work ⇒ the Commission may, at the request of ⇐ 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~~ ⇒ the Commission ⇐ 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.

6. On the adoption of each TSI, the date of entry into force of that TSI shall be established in accordance with the procedure set out in Article 21~~(2)~~ ⇒ (4) ⇐ . Where different subsystems have to be placed in service simultaneously for reasons of technical compatibility, the dates of entry into force of the corresponding TSIs shall be the same.

7. The drafting, 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~~ ⊗ drawn up ⊗ by ~~the Committee referred to in Article 21 before it adopts the mandate of the first TSI~~ ⇒ the Commission, after consulting the Committee in accordance with the procedure referred to in Article 21(2), ⇐ and may be re-examined and updated at the request of a Member State or ⇒ on the initiative of ⇐ the Commission.

8. The drafting, 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 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/EC²⁰. The social partners shall issue their opinion within three months.

↓ new

9. When each TSI is adopted and revised, a decision shall be taken as to whether technical annexes, and which ones, can be published separately by the Agency and what special language and updating rules should apply in view of the evolving, technological nature of those annexes (in particular in the case of information and communication technologies). If such is the case, the language rules and the updating procedure are included in the measure adopting the TSI.

↓ 2001/16/EC and 2004/50/EC
Art. 1(6)
⇒ new

Article 7

1. A Member State need not apply one or more TSIs, including those relating to rolling stock, ⇒ in accordance with this Article ⇐ in the following cases and circumstances:

↓ 2004/50/EC Art. 1(6) and Art. 2(6)

(a) for a proposed new line, for the renewal or upgrading of an existing line, or for any element referred to Article 1(1) at an advanced stage of development or the subject of a contract in course of performance when these TSIs are published;

↓ 2001/16/EC and 2004/50/EC
Art. 1(6)

(b) for any project concerning the renewal or upgrading of an existing line where the loading gauge, track gauge, space between the tracks, or electrification voltage in these TSIs is not compatible with those of the existing line;

(c) for a proposed new line or for the proposed renewal or upgrading of an existing line in the territory of that Member State when its rail network is separated or isolated by the sea from the rail network of the rest of the Community;

²⁰ OJ L 225, 12.8.1998, p. 27.

(d) for any proposed renewal, extension or upgrading of an existing line, when the application of these TSIs would compromise the economic viability of the project and/or the compatibility of the rail system in the Member State;

(e) where, following an accident or a natural disaster, the conditions for the rapid restoration of the network do not economically or technically allow for partial or total application of the relevant TSIs;

↓ 2001/16/EC

(f) for wagons from or going to third countries the track gauge of which is different from that of the main rail network of the Community.

↓ new

2. In all cases, the Member State concerned shall notify to the Commission a file containing the information set out in Annex VIII. The Commission shall analyse the measures proposed by the Member State and shall inform the Committee referred to in Article 21.

3. In cases (c) and (e), the Commission shall check that the file is in conformity and shall inform the Member States of the results of its analysis. The Member State may apply the alternative provisions without delay.

↓ 2001/16/EC (adapted)

⇒ new

~~In all cases the Member State concerned shall serve prior notice of its intended derogation to the Commission and shall forward to it a file setting out the TSIs or the parts of TSIs that it does not wish to be applied as well as the corresponding specifications that it does wish to apply. ⇒ 4. In cases ⇒ (a), ⇒ (b), (d) and (f), the Commission shall take a decision ⇒ decide, ⇒ in accordance with the procedure provided for in Article 21(2) ⇒ (3) ⇒ , ⇒ if the derogation request is accepted ⇒ ; where necessary, a recommendation shall be drawn up concerning the specifications to be applied. Nevertheless, in the case of (b) the Commission's decision shall not cover the loading gauge and the track gauge. ⇒ The Commission shall give its decision within six months of the presentation of the request supported by the complete file. Until the Commission has given its decision, the Member State may not apply the derogation requested. ⇐~~

↓ 2004/50/EC Art. 1.6 (adapted)

~~In all cases, the Member State concerned shall serve prior notice of its intended derogation to the Commission and shall forward to it a file setting out the TSIs or the parts of TSIs that it does not wish to be applied as well as the corresponding specifications that it does wish to apply. The Commission shall analyse the measures envisaged by the Member State. In cases (b) and (d), the Commission shall take a decision in accordance with the procedure set out in Article 21(2). Where necessary, a recommendation shall be drawn up concerning the specifications to be applied. Nevertheless, in the case of (b) the Commission's decision shall not cover the loading gauge and the track gauge.~~

↓ 96/48/EC and 2001/16/EC

CHAPTER III

INTEROPERABILITY CONSTITUENTS

Article 8

Member States shall take all necessary steps to ensure that interoperability constituents:

↓ 2001/16/EC (adapted)

(a) are placed on the market only if they enable interoperability to be achieved within the ~~trans-European conventional~~ rail system while at the same time meeting the essential requirements;

↓ 96/48/EC and 2001/16/EC

(b) are used in their area of use as intended and are suitably installed and maintained.

↓ 2001/16/EC

These provisions shall not obstruct the placing on the market of these constituents for other applications.

↓ 96/48/EC (adapted)

~~These provisions do not exclude the placing on the market of these constituents for other purposes, nor their use for conventional railway lines.~~

↓ 2001/16/EC (adapted)

Article 9

Member States may not, in their territory and on grounds concerning this Directive, prohibit, restrict or hinder the placing on the market of interoperability constituents for use in the ~~trans-European conventional~~ rail system where they comply with this Directive. In particular, they may not require checks which have already been carried out as part of the procedure of «EC» declaration of conformity or suitability for use, the components of which are set out in Annex IV.

↓ 2004/50/EC Art. 1(7)

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.

↓ 2001/16/EC

Article 10

1. Member States shall consider as complying with the essential requirements of this Directive applying to them those interoperability constituents which bear the «EC» declaration of conformity or suitability for use.

↓ 2004/50/EC Art. 2.7(a)

2. All interoperability 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.

↓ 2004/50/EC Art. 1.4(b) and Art. 2. 8(b)

3. Member States shall consider that an interoperability constituent meets the essential requirements if it complies with the conditions laid down by the corresponding TSI or the corresponding European specifications developed to comply with these conditions.

↓ 2001/16/EC (new)

~~6. Where a European specification is not yet available at the time of adoption of a TSI and compliance with this specification is an essential precondition to guarantee interoperability, the TSI may refer to the most advanced version available of the draft European specification that has to be complied with or that incorporates all or part of that draft.~~

↓ new

TSIs shall provide for a period of transition for interoperability constituents which have already been placed on the market when the TSIs enter into force. So that they can be integrated into a subsystem, such constituents must satisfy the requirements of Article 8.

↓ 2004/50/EC Art. 2(8)
⇒ new

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, ⇒ the Committee referred to in Article 21 shall be informed and the Commission shall adopt the most appropriate measure, i.e. ⇐

- (a) 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, where European standards are involved, of the Committee set up under Directive 98/34/EC, or
- (b) ⇒ review of the TSI in accordance with Article 6(1) ⇐ .
-

↓ 2001/16/EC

Article 12

1. Where a Member State finds that an interoperability constituent covered by the «EC» declaration of conformity or suitability for use and placed on the market is unlikely, when used as intended, to meet the essential requirements, it shall take all necessary steps to restrict its field of application, prohibit its use or withdraw it from the market. The Member States shall forthwith inform the Commission of the measures taken and give the reasons for its decision, stating in particular whether failure to conform is due to:

↓ 96/48/EC and 2001/16/EC

- (a) failure to meet the essential requirements;
- (b) incorrect application of European specifications where application of such specifications is relied upon;
- (c) inadequacy of European specifications.

2. The Commission shall consult the parties concerned as quickly as possible. Where, following that consultation, the Commission establishes that the measure is justified it shall forthwith inform the Member State that has taken the initiative as well as the other Member States thereof. Where, after that consultation, the Commission establishes that the measure is unjustified it shall forthwith inform the Member State that has taken the initiative and the manufacturer or his authorised representative established within the Community thereof. Where the decision referred to in paragraph 1 is justified by the existence of a gap in European specifications, the procedure defined in Article 11 shall apply.

3. Where an interoperability constituent bearing the «EC» declaration of conformity fails to comply, the competent Member State shall take appropriate measures against whomsoever has drawn up the declaration and shall inform the Commission and the other Member States thereof.

4. The Commission shall ensure that the Member States are kept informed of the course and results of that procedure.

↓ 2001/16/EC

Article 13

1. In order to establish the «EC» declaration of conformity or suitability for use of an interoperability constituent, the manufacturer or his authorised representative established in the Community shall apply the provisions laid down by the relevant TSIs.

↓ 96/48/EC (adapted)

~~2. Where so required by the TSIs, the assessment of conformity or suitability for use of an interoperability constituent shall be appraised by the notified body with which the manufacturer or his authorized representative established within the Community has lodged the application.~~

↓ 2001/16/EC

2. Assessment of the conformity or suitability for use of an interoperability constituent shall be carried out by the notified body with which the manufacturer or his authorised representative established in the Community has lodged the application.

↓ 96/48/EC and 2001/16/EC

3. Where interoperability constituents are the subject of other Community directives covering other aspects, the «EC» declaration of conformity or suitability for use shall, in such instances, state that the interoperability constituents also meet the requirements of those other directives.

4. Where neither the manufacturer nor his authorised representative established in the Community has met the obligations arising out of paragraphs 1~~2~~ and 3, those obligations shall be incumbent on any person who places interoperability constituents on the market. The same obligations shall apply to whomsoever assembles interoperability constituents or parts of interoperability constituents having diverse origins or manufactures interoperability constituents for his own use, for the purposes of this Directive.

5. Without prejudice to the provisions of Article 12:

↓ 2001/16/EC (adapted)

⇒ new

(a) in each instance where the Member State finds that the «EC» declaration of conformity has been drawn up improperly, the manufacturer or his authorised representative established in the Community shall be required, ⇒ if necessary, ⇐ to restore the interoperability constituent to a state of conformity and to terminate the infringement under the conditions laid down by that Member State;

(b) where non-conformity persists, the Member State shall take all appropriate steps to restrict or prohibit the placing on the market of the interoperability constituent at issue, or to ensure that it is withdrawn from the market in accordance with the procedures provided for in Article 12.

CHAPTER IV

SUBSYSTEMS

Article 14

1. Each Member State shall authorise the putting into service of those structural subsystems constituting the ~~trans-European conventional~~ 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 as to meet the essential requirements concerning them when integrated into the ~~trans-European conventional~~ 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 they are put into service ~~and at regular intervals thereafter,~~ that \Rightarrow the TSI rules devised to ensure that \Leftarrow these subsystems are operated and maintained in accordance with the essential requirements concerning them \Rightarrow , are complied with. After these subsystems have been placed in service, the check will be carried out in the context of granting safety certificates and safety approvals under Articles 10 and 11 of the Railway Safety Directive²¹ \Leftarrow .

↓ 2004/50/EC Art. 2(9)(a)

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

↓ 2004/50/EC Art. 2.9(b)
(adapted)
 \Rightarrow new

3. In the event of renewal or upgrading, ~~the infrastructure manager or the railway undertaking~~ \Rightarrow the contracting entity \Leftarrow 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 placing in service within the meaning of this Directive is needed.

²¹ Directive 2004/49/EC ...

Such new authorisation for placing in service shall be required whenever the overall safety level of the subsystem concerned may be affected by the works envisaged. If a new authorisation is needed, the Member State shall decide to what extent the TSIs need to be applied to the project. The Member State shall notify its decision to the Commission ~~and the other Member States.~~ ⇒ and shall state: ⇐

↓ new

- the reason why the TSI(s) is/are not fully applied;
- the technical characteristics applying instead of the TSI;
- The bodies responsible for applying, in the case of those characteristics, the verification procedure referred to in Article 18.

The Commission shall communicate this information to the Agency, which shall publish it.

Where the Member State decides that an authorisation for placing in service is not necessary or where a TSI is only partially applied pursuant to this paragraph, the application for or notification of a derogation within the meaning of Article 7 shall be optional.

↓ 2004/50/EC Art. 1, pt 10 and Art. 2, pt 9 c
⇒ new

4. Where Member States authorise the placing in service of rolling stock, they shall be responsible for ensuring that an alphanumeric identification code is assigned to each vehicle. This code must be marked on each vehicle and be entered in a national vehicle register that meets the following criteria:

- (a) the register shall comply with the common specifications defined in paragraph 5;
- (b) the register shall be kept and updated by a body independent of any railway undertaking;
- (c) the register shall be accessible to the safety authorities and investigating bodies designated in Articles 16 and 21 of 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)²²; it shall also be made accessible, in response to any legitimate request, to the regulatory bodies designated in Article 30 of Directive 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 certification²³, to the Agency, to the railway companies and to the infrastructure managers.

²² OJ L 164, 30.4.2004, p. 44.

²³ OJ L 75, 15.3.2001, p. 29. Directive as amended by Directive 2002/844/EC (OJ L 289, 26.10.2002, p. 30).

In case of rolling stock placed in service for the first time in a third country, Member States may accept vehicles clearly identified according to a different coding system. However, once a Member State has authorised the placing in service of such vehicles on its territory, it must be possible to retrieve the corresponding data, listed below in paragraph 5(c), (d) and (e), through the register.

5. The common specifications for the register shall be adopted in accordance with the procedure set out in Article 21(2) ⇒ (3) ⇐, on the basis of the draft specifications prepared by the Agency. These draft specifications shall include: content, data format, functional and technical architecture, operating mode, and rules for data input and consultation. The register shall contain at least the following information:

- (a) references to the EC declaration of verification and the issuing body;
- (b) references to the register of rolling stock mentioned in Article 24;
- (c) identification of the owner of the vehicle ~~or the lessee~~ ⇒ or the keeper ⇐ ;
- (d) any restrictions on how the vehicle may be used;
- (e) ~~safety-critical data relating to the maintenance schedule of the vehicle~~ ⇒ entity responsible for maintenance. If this information is not available when placing in service is authorised, it can be added later but before the vehicle is used by a railway company. ⇐

↓ new

6. For wagons and passenger carriages placed in service after this Directive has entered into force, the TSI makes clear whether a single authorisation for putting into service issued by one Member State of the Community is sufficient and under what conditions.

7. In the case of rolling stock placed in service before this Directive enters into force and not bearing an "EC" declaration of verification as provided for by Article 18 of this Directive, the Railway Safety Directive applies. In particular:

- If the safety authority of a Member State so requires, an additional authorisation to place rolling stock in service must be obtained in accordance with the provisions of Article 14 of the Railway Safety Directive;
- Otherwise, the safety certificate granted to the railway company under Article 10 of the Railway Safety Directive shall serve as an authorisation for placing rolling stock in use in service.

8. In the case of rolling stock bearing an "EC" declaration of verification as provided for in Article 18, the criteria which a safety authority checks with a view to issuing an authorisation for placing in service may concern only:

- technical compatibility between that rolling stock and the infrastructure concerned;
- the rules applicable to the open points referred to in Article 17(2);

- the rules applicable to the specific cases duly identified in the relevant TSIs;
- The derogations duly notified in accordance with Article 7 of this Directive.

9. Without prejudice to the procedure mentioned in Article 18, Member States may issue authorisations for placing in service for a rolling-stock series.

↓ 2001/16/EC (adapted)

Article 15

Without prejudice to the provisions of Article 19, Member States may not, in their territory and on grounds concerning this Directive, prohibit, restrict or hinder the construction, putting into service and operating of structural subsystems constituting the ~~trans-European conventional~~ rail system which meet the essential requirements. 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, the components of which are set out in Annex V.

↓ 2004/50/EC Art. 1(11)

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.

↓ 2001/16/EC (adapted)

Article 16

1. Member States shall consider as being interoperable and meeting the essential requirements concerning them, those structural subsystems constituting the ~~trans-European conventional~~ rail system which are covered by the «EC» declaration of verification.

2. Verification of the interoperability, in accordance with the essential requirements, of a structural subsystem constituting the ~~trans-European conventional~~ rail system shall be established by reference to TSIs where they exist.

↓ 2004/50/EC Art. 1(12) and Art. 2(10)
⇒ new

3. In the absence of TSIs, ~~and including cases~~ when a derogation has been notified under Article 7, ⇒ or when a specific case requires the application of technical rules not included in the TSI concerned, ⇐ Member States shall send ~~the other Member States and~~ the Commission, for each subsystem, a list of the technical rules in use for implementing the essential requirements.

This shall be notified ⇨ , depending on the circumstances, ⇨ either by 30 April 2005 ⇨ at the latest two years after the entry into force of this Directive ⇨ and thereafter each time the list of technical rules is changed ⇨ , or after the derogation has been notified, or after publication of the TSI concerned ⇨ . On that occasion, Member States shall also designate the bodies responsible for carrying out, in the case of these technical regulations, the verification procedure referred to in Article 18.

⇩ new

The Commission shall communicate this information to the Agency, which shall publish it.

⇩ 96/48/EC and 2001/16/EC
(adapted)
⇨ new

Article 17

1. If it emerges that the TSIs do not fully meet the essential requirements, the Committee referred to in Article 21 may be consulted at the request of a Member State or on the initiative of the Commission ⇨ , in connection with the review procedure ⇨ =

⇩ 2004/50/EC Art. 1(13) and Art. 2(11)

~~In such a case, the TSIs shall be reviewed~~ in accordance with Article 6(2).

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.

⇩ new

3. Where a Member State or the Commission considers that it is urgent to modify a TSI, the Agency shall be requested to provide a Technical Opinion. The Commission shall decide, having consulted the Committee under the procedure referred to in Article 21(2), if the Technical opinion may be used pending the review of the TSI; if such is the case, the Agency shall publish the Technical Opinion.

⇩ 2001/16/EC
⇨ new

Article 18

1. In order to establish the "EC" declaration of verification, ~~the procurement entity or its official representative~~ ⇨ the applicant ⇨ shall invite the notified body that it has selected for that purpose to apply the "EC" verification procedure referred to in Annex VI. ⇨ The applicant may be the contracting entity or the constructor, or their authorised representative within the Community. ⇨

2. The task of the notified body responsible for the «EC» verification of a subsystem shall begin at the design stage and cover the entire manufacturing period through to the acceptance stage before the subsystem is put into service. It shall also cover verification of the interfaces of the subsystem in question with the system into which it is incorporated, based on the information available in the relevant TSI and in the registers provided for in Article 24.

3. The notified body shall be responsible for compiling the technical file that has to accompany the «EC» declaration of verification. This technical file must contain all the necessary documents relating to the characteristics of the subsystem and, where appropriate, all the documents certifying conformity of the interoperability constituents. It should also contain all the elements relating to the conditions and limits of use and to the instructions concerning servicing, constant or routine monitoring, adjustment and maintenance.

↓ new

4. The notified body may issue intermediate verification certificates to cover certain stages of the production cycle or certain parts of the subsystem. In such a case, the procedure set out in Annex VI shall apply.

5. If chapter 6 of the corresponding TSI allows, the notified body may issue verification certificates for a rolling-stock series.

↓ 96/48/EC and 2001/16/EC

Article 19

1. Where a Member State finds that a structural subsystem covered by the «EC» declaration of verification accompanied by the technical file does not fully comply with this Directive and in particular does not meet the essential requirements, it may request that additional checks be carried out.

2. The Member State making the request shall forthwith inform the Commission of any additional checks requested and set out the substantiating reasons therefor. ~~The Commission shall without delay initiate the procedure provided for in Article 21 (2).~~ The Commission shall consult the interested parties.

↓ new

3. The Member State making the request shall state whether the failure to conform is due to:

- (c) non-compliance with the essential requirements or a TSI or incorrect application of a TSI. In such a case, the Commission shall immediately inform the Member State where the person who drew up the "EC" declaration of verification in error resides and shall ask it to take the appropriate measures;
- (d) inadequacy of a TSI. In such a case, the procedure for reviewing the TSI shall be started pursuant to Article 6(1).

CHAPTER V

NOTIFIED BODIES

Article 20

1. Member States shall notify to the Commission and the other Member States the bodies responsible for carrying out the procedure for the assessment of conformity or suitability for use referred to in Article 13 and the verification procedure referred to in Article 18, indicating each body's area of responsibility, and the identification numbers obtained in advance from the Commission. The Commission shall publish in the Official Journal of the European Communities ~~Communities~~ ☒ Union ☒ the list of bodies, their identification numbers and areas of responsibility, and shall keep the list updated.

2. Member States shall apply the criteria provided for in Annex VII for the assessment of the bodies to be notified. Bodies meeting the assessment criteria provided for in the relevant European standards shall be deemed to meet the said criteria.

3. A Member State shall withdraw approval from a body which no longer meets the criteria referred to in Annex VII. It shall forthwith inform the Commission and the other Member States thereof.

4. Should a Member State or the Commission consider that a body notified by another Member State does not meet the relevant criteria, ~~the matter shall be referred to the Committee provided for in Article 21, which shall deliver its opinion within three months~~ ⇒ the Commission shall consult the parties concerned. ⇐ ~~In the light of the opinion of the Committee~~ ⇒ After consulting the Committee in accordance with the procedure referred to in Article 21(2), ⇐ the Commission shall inform the Member State in question of any changes that are necessary for the notified body to retain the status conferred upon it.

5. The Commission shall set up a notified bodies coordination group (hereinafter referred to as the coordination group) which shall discuss any matter relating 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. Member States' representatives may take part in the work of the coordination group as observers.

The Commission and the observers shall inform the committee referred to in Article 21 of the work carried out in the framework of this coordination group. The Commission, when appropriate, will propose the measures needed to remedy the problems.

Where necessary, coordination of the notified bodies shall be implemented in accordance with Article 21(5).

↓ 2001/16/EC

CHAPTER VI

COMMITTEE AND WORK PROGRAMME

Article 21

1. The Commission shall be assisted by the Committee established by Article 21 of Directive 96/48/EC (hereinafter referred to as "the Committee").

↓ new

2. Where reference is made to this paragraph, Article 3 and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

↓ 2001/16/EC and 2004/50/EC
Art. 1(16)

~~3~~ 3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

↓ new

4. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

↓ 2001/16/EC and 2004/50/EC
Art. 1, pt 16

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

↓ 2004/50/EC Art. 2, pt 13

~~4~~ 5. Should it prove necessary, the Committee may set up working parties to assist it in carrying out its tasks, in particular with a view to coordinating the notified bodies.

↓ 2004/50/EC Art. 2(14)
⇒ new

~~Article 21a~~

~~6. 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) ⇒ (2) ⇐.~~

↓ 2004/50/EC Art. 1, pt 17
(adapted)

~~1. The Committee may discuss any matter relating to the interoperability of the trans-European high-speed rail system, including questions relating to interoperability between this 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 mandate the drafting of a TSI for an additional subject, insofar as it concerns a subsystem mentioned in Annex II.~~

~~2. In accordance with the procedure set out in Article 21(2), the Committee shall, on the basis of a proposal by the Commission, adopt a work programme conforming to the objectives of this Directive 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 system²⁴.~~

↓ 2004/50/EC Art. 1(17) and Art. 2(14)
⇒ new

~~Article 21b~~

~~7. Annexes II to VI may be amended in accordance with the procedure set out in Article 21(2). ⇒ The measures amending the non-essential elements of this Directive set out in Annexes II to VII shall be adopted in accordance with the regulatory procedure with scrutiny referred to in paragraph 4 of this Article. ⇐~~

²⁴ OJL 110, 20.4.2001, p. 1.

↓ 2001/16/EC (adapted)
⇒ new

Article 22

Once this Directive enters into force, the Committee may discuss any matter relating to the interoperability of the ~~trans-European conventional~~ rail system, including questions relating to interoperability between the ⇒ Community ⇐ ~~trans-European~~ rail system and the rail system of third countries.

↓ 2004/50/EC Art. 2, pt 15
(adapted)
⇒ new

Article 23

~~1. The order of priority for the adoption of the TSIs shall be as follows, without prejudice to the order of adoption of the mandates provided for in Article 6(1):~~

~~(a) the first group of TSIs shall cover control/command and signalling; telematic applications for freight services; traffic operation and management (including staff qualifications for cross border services respecting the criteria defined in Annexes II and III); freight wagons; noise problems deriving from rolling stock and infrastructure. As regards rolling stock, that intended for international use shall be developed first;~~

~~(b) the following aspects shall also be discussed in the light of the resources of the Commission and the Agency: telematic applications for passenger services; maintenance, with particular regard to safety, passenger carriages, traction units and locomotives, infrastructure, energy and air pollution. As regards rolling stock, that intended for international use shall be developed first;~~

~~(c) at the request of the Commission, a Member State or the Agency, the Committee may decide, in accordance with the procedure set out in Article 21(2), to draw up a TSI for an additional subject in so far as it concerns a subsystem mentioned in Annex II.~~

21. The Commission, ~~in accordance with the procedure set out in Article 21(2)~~, shall draw up a work programme ⇒ taking account of the extension of the scope, provided for in Article 1(3), of the review of the TSIs provided for in Article 6(2) ⇐ ~~observing the order of priority referred to in paragraph 1~~ and ~~that~~ of the other tasks entrusted to it by this Directive.

~~The TSIs mentioned in the first work programme referred to in paragraph 1(a) shall be drawn up not later than 20 April 2004.~~

32. The work programme shall consist of the following stages:

- (a) development on the basis of a draft established by the Agency of a representative architecture of the conventional rail system, based on the list of subsystems (Annex II), to guarantee consistency between TSIs; this architecture must include in particular the various constituents of this system and their interfaces and act as a reference framework for defining the areas of use of each TSI;
- (b) adoption of a model structure for developing TSIs;
- (c) adoption of a method of cost-benefit analysis of the solutions set out in the TSIs;
- (d) adoption of the mandates needed to draw up the TSIs;
- (e) ~~adoption~~ ⇒ identification ⇐ of the basic parameters for each TSI;
- (f) approval of draft standardisation programmes;
- (g) management of the transition period between the date of entry into force of 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 system²⁵ and publication of the TSIs, including the adoption of the reference system mentioned in Article 25.

↓ 2001/16/EC
⇒ new

CHAPTER VII

REGISTERS OF INFRASTRUCTURE AND ROLLING STOCK

Article 24

1. The Member States shall ensure that registers of infrastructure and of rolling stock are published and updated ⇒ regularly ⇐ ~~annually~~. Those 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.

²⁵ OJ L 164, 30.4.2004, p. 114.

↓ 2004/50/EC Art. 2(16)

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 interested parties, including at least the professional actors from the sector.

↓ new

3. The Agency shall prepare a draft guide to implementing the registers of infrastructure and rolling stock; the guide shall specify the contents of the registers and recommend their format, revision cycle and instructions for use. The guide shall also set out the rules for implementing this Article with regard to infrastructures and rolling stock placed in service before the entry into force of this Directive. The Commission shall adopt the guide after consulting the Committee in accordance with the procedure referred to in Article 21(2).

↓ 2004/50/EC Art. 1(18)

~~Article 22a~~

~~1. Member States shall ensure that a register of infrastructure and a register of rolling stock 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 interested parties, including at least the professional actors from the sector.~~

↓ 2001/16/EC

CHAPTER VIII

TRANSITIONAL PROVISIONS

Article 25

↓ 2004/50/EC Art. 2(17)

⇒ new

1. The Agency shall develop, in accordance with Articles 3 and 12 of Regulation (EC) No 881/2004, on the basis of the information notified by the Member States under Article 16(3), technical documents from the profession and the texts of the relevant international agreements, a draft reference system of technical rules ensuring the current degree of interoperability of the lines and rolling stock that will be brought within the scope

of this Directive as defined in Article 1(3). ~~The Commission, following the procedure set out in Article 21(2), shall examine this draft and decide whether it may constitute a reference system pending the adoption of TSIs.~~ ⇨ If necessary, the Commission shall adopt the reference system in accordance with the procedure referred to in Article 21(2). ⇐

↓ 2001/16/EC (new)
⇨ new

2. Following adoption of the abovementioned reference system, Member States shall inform ~~the Committee~~ ⇨ the Commission ⇐ of their intention to adopt any national provision or of the development of any project in their territory which diverges from the reference system.

↓ 2004/50/EC Art. 2(17)
(new)

CHAPTER IX

FINAL PROVISIONS

Article 26

Any decision taken pursuant to this Directive concerning the assessment of conformity or suitability for use of interoperability constituents, the checking of subsystems constituting the ~~trans-European conventional~~ rail system and any decision taken pursuant to Articles 11, 12, 17 and 19 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 laws in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.



Article 27

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 (points q-r-s), 7, 10(5), 14, 16(3), 18(4) and (5), 24(1) and Annexes II and VII not later than [...] ²⁶. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, 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

²⁶ 24 months after the entry into force of this Directive

Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

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.

↓ 2001/16/EC (adapted)
⇒ new

Article 28

Every ~~two~~ ⇒ three ⇐ years, ~~and for the first time 20 April 2005~~ the Commission shall report to the European Parliament and the Council on the progress made towards achieving interoperability of the ~~trans-European conventional~~ rail system. That report shall also include an analysis of the cases set out in Article 7.

↓ 2001/16/EC (adapted)
⇒ new

~~The joint representative body~~ ⇒ The Agency ⇐ shall develop and regularly update a tool capable of providing, at the request of a Member State or the Commission, a chart of the interoperability level of the ~~trans-European conventional~~ rail system. That tool shall use the information available in the registers provided for in Article 24.

↓ new

Article 29

Directives 96/48/EC and 2001/16/EC, as amended by Directive 2004/50/EC, are repealed with effect from [...]²⁷, without prejudice to the obligations of the Member States concerning the time limits for transposition into national law and application of the said Directives.

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

↓ 96/48/EC and 2001/16/EC
(adapted)


Article ~~29~~30

This Directive shall enter into force on the day of its publication in the Official Journal of the European ~~Communities~~ ⊗ Union ⊗.

²⁷ Date indicated in the first subparagraph of Article 27.



Articles 1, 2 (from (a) to (p)), 3, 4, 5, 6, 8, 9, 10(1) to (4), 11, 12, 13, 15, 16(1) and (2), 17, 18(1) to (3), 19 to 23, 24(2) and (3), 25 to 31 and Annexes I and III to VII shall apply from the above date of entry into force.

 96/48/EC and 2001/16/EC

Article ~~30~~31

This Directive is addressed to the Member States.

ANNEX I

⊗ SCOPE ⊗

1. THE TRANS-EUROPEAN CONVENTIONAL RAIL SYSTEM

1.1. INFRASTRUCTURE

The infrastructure of the trans-European conventional rail system will be that on 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 network²⁸ or listed in any update to the same Decision as a result of the revision provided for in Article 21 of that Decision.

For the purposes of this Directive, this network may be subdivided into the following categories:

- lines intended for passenger services;
- lines intended for mixed traffic (passengers and freight);
- lines specially designed or upgraded for freight services;
- passenger hubs;
- freight hubs, including intermodal terminals;
- lines connecting the abovementioned elements.

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

1.2. ROLLING STOCK

The rolling stock will comprise all the stock likely to travel on all or part of the trans-European conventional rail network, including:

- self-propelling thermal or electric trains;
- thermal or electric traction units;

²⁸ OJ L 228, 09.9.1996, p. 1. Decision as amended by Decision No 1346/2001/EC (OJ L 185, 6.7.2001, p. 1).

- passenger carriages;
- freight wagons, including rolling stock designed to carry lorries.

Mobile railway infrastructure construction and maintenance equipment is included but is not the first priority.

Each of the above categories is subdivided into:

- rolling stock for international use;
- rolling stock for national use.

↓ 2004/50/EC Art. 1, pt 19 and
Annex I (adapted)
⇒ new

2. ~~THE~~ TRANS-EUROPEAN HIGH-SPEED RAIL SYSTEM

2.1. 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 network²⁹ or listed in any update of that 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 category also includes interconnecting lines between the high-speed and conventional networks, lines through stations, accesses to terminals, depots, etc. travelled at conventional speed by "high-speed" rolling stock.
↩

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.

²⁹ OJ L 228, 09.9.1996, p. 1. Decision as amended by Decision No 1346/2001/EC (OJ L 185, 6.7.2001, p. 1).

2.2. 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 the lines of section 1, where compatible with the performance levels of these lines.

↓ 2004/50/EC Art. 2, pt 18 and Annex III (adapted)

3. COMPATIBILITY OF THE ~~TRANS-EUROPEAN CONVENTIONAL~~ RAILWAY SYSTEM

↓ 2004/50/EC Art. 1, pt 19 and Annex I and Art. 2, pt 18 and Annex III

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.

4. EXTENSION OF THE SCOPE

4.1. Subcategories of lines and rolling stock

In order to deliver interoperability cost-effectively further subcategories of all categories of lines and rolling stock mentioned in this Annex will, where necessary, be developed. If necessary, the functional and technical specifications mentioned in Article 5(3) may vary according to the subcategory.

4.2. Cost safeguards

The cost-benefit analysis of the proposed measures will take into consideration, among others, the following:

- cost of the proposed measure,
- reduction of capital costs and charges due to economies of scale and better utilisation of rolling stock,
- reduction of investment and maintenance/operating costs due to increased competition between manufacturers and maintenance companies,
- environmental benefits, due to technical improvements of the rail system,

- increase of safety in operation.

In addition, this assessment will indicate the likely impact for all the operators and economic agents involved.

↓ 2001/16/EC (adapted)

ANNEX II
SUBSYSTEMS

1. LIST OF SUBSYSTEMS

For the purposes of this Directive, the system constituting the ~~trans-European conventional~~ rail system may be broken down into the following two subsystems, either:

↓ 2001/16/EC and 2004/50/EC
Art. 1, pt 20 and Annex II
(adapted)
⇒ new

(a) structural areas:

- infrastructure;
- energy;
- control and command and signalling;
- ~~traffic operation and management;~~
- rolling stock;

or (b) operational areas:

- ⇒ traffic operation and management ⇐,
 - maintenance;
 - telematics applications for passenger and freight services.
-

↓ 2004/50/EC Art. 1, pt 20 and
Annex II

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 Article 6(1), these mandates shall be established in accordance with the procedure set out 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 Article 5(3)(e).~~

2. DESCRIPTION OF THE SUBSYSTEMS

For each subsystem or part of a subsystem, the list of constituents and aspects relating to interoperability is proposed by ~~the joint representative body~~ ⇒ the Agency ⇐ at the time of drawing up the relevant draft TSI.

Without prejudging the choice of aspects and constituents relating to interoperability or the order in which they will be made subject to TSIs, the subsystems include, in particular:

2.1. Infrastructure:

The track, points, engineering structures (bridges, tunnels, etc.), associated station infrastructure (platforms, zones of access, including the needs of persons with reduced mobility, etc.), safety and protective equipment.

2.2. Energy

The electrification system, ~~⇒~~ and ~~⇐~~ overhead lines, ~~and current collectors.~~

2.3. Control and command and signalling

All the equipment necessary to ensure safety and to command and control movements of trains authorised to travel on the network.

2.4. Operation and traffic management

The procedures and related equipment enabling a coherent operation of the different structural subsystems, both during normal and degraded operation, including in particular ⇒ training and ⇐ train driving, traffic planning and management.

The professional qualifications which may be required for carrying out cross-border services.

2.5. Telematics applications:

In accordance with Annex I, this subsystem comprises two elements:

(a) applications for passenger services, including systems providing passengers with information before and during the journey, reservation and payment systems, luggage management and management of connections between trains and with other modes of transport;

(b) applications for freight services, including information systems (real-time monitoring of freight and trains), marshalling and allocation systems, reservation, payment and invoicing systems, management of connections with other modes of transport and production of electronic accompanying documents.

2.6. Rolling stock

Structure, command and control system for all train equipment, ⇒ current-collection devices ⇐ traction and energy conversion units, braking, coupling and running gear (bogies, axles, etc.) and suspension, doors, man/machine interfaces (driver, on-board staff and passengers, including the needs of persons with reduced mobility), passive or active safety devices and requisites for the health of passengers and on-board staff.

2.7. Maintenance

The procedures, associated equipment, logistics centres for maintenance work and reserves allowing the mandatory corrective and preventive maintenance to ensure the interoperability of the rail system and guarantee the performance required.

ANNEX III

ESSENTIAL REQUIREMENTS

1. GENERAL REQUIREMENTS

1.1. Safety

1.1.1. The design, construction or assembly, maintenance and monitoring of safety-critical components, and more particularly of the components involved in train movements must be such as to guarantee safety at the level corresponding to the aims laid down for the network, including those for specific degraded situations.

1.1.2. The parameters involved in the wheel/rail contact must meet the stability requirements needed in order to guarantee safe movement at the maximum authorized speed.

1.1.3. The components used must withstand any normal or exceptional stresses that have been specified during their period in service. The safety repercussions of any accidental failures must be limited by appropriate means.

1.1.4. The design of fixed installations and rolling stock and the choice of the materials used must be aimed at limiting the generation, propagation and effects of fire and smoke in the event of a fire.

1.1.5. Any devices intended to be handled by users must be so designed as not to impair the safe operation of the devices or the health and safety of users if used foreseeably in a manner not in accordance with the posted instructions.

↓ 96/48/EC (adapted)

~~1.1.5. Any devices intended to be handled by users must be so designed as not to impair their safety if used foreseeably in a manner not in accordance with the posted instructions.~~

↓ 96/48/EC and 2001/16/EC

1.2. Reliability and availability

The monitoring and maintenance of fixed or movable components that are involved in train movements must be organized, carried out and quantified in such a manner as to maintain their operation under the intended conditions.

1.3. Health

1.3.1. Materials likely, by virtue of the way they are used, to constitute a health hazard to those having access to them must not be used in trains and railway infrastructures.

1.3.2. Those materials must be selected, deployed and used in such a way as to restrict the emission of harmful and dangerous fumes or gases, particularly in the event of fire.

1.4. Environmental protection

↓ 2001/16/EC (new)

1.4.1. The environmental impact of establishment and operation of the ~~trans-European conventional~~ rail system must be assessed and taken into account at the design stage of the system in accordance with the Community provisions in force.

↓ 96/48/EC and 2001/16/EC

1.4.2. The materials used in the trains and infrastructures must prevent the emission of fumes or gases which are harmful and dangerous to the environment, particularly in the event of fire.

1.4.3. The rolling stock and energy-supply systems must be designed and manufactured in such a way as to be electromagnetically compatible with the installations, equipment and public or private networks with which they might interfere.

↓ 2001/16/EC (new)

1.4.4. Operation of the ~~trans-European conventional~~ rail system must respect existing regulations on noise pollution.

1.4.5. Operation of the ~~trans-European conventional~~ rail system must not give rise to an inadmissible level of ground vibrations for the activities and areas close to the infrastructure and in a normal state of maintenance.

1.5. Technical compatibility

The technical characteristics of the infrastructure and fixed installations must be compatible with each other and with those of the trains to be used on the ~~trans-European conventional~~ rail system.

↓ 96/48/EC and 2001/16/EC

If compliance with these characteristics proves difficult on certain sections of the network, temporary solutions, which ensure compatibility in the future, may be implemented.

2. REQUIREMENTS SPECIFIC TO EACH SUBSYSTEM

2.1. Infrastructure

2.1.1. Safety

↓ 2001/16/EC

Appropriate steps must be taken to prevent access to or undesirable intrusions into installations.

Steps must be taken to limit the dangers to which persons are exposed, particularly when trains pass through stations.

↓ 96/48/EC and 2001/16/EC

Infrastructure to which the public has access must be designed and made in such a way as to limit any human safety hazards (stability, fire, access, evacuation, platforms, etc.).

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

2.2. Energy

2.2.1. Safety

↓ 2001/16/EC

Operation of the energy-supply systems must not impair the safety either of trains or of persons (users, operating staff, trackside dwellers and third parties).

2.2.2. Environmental protection

The functioning of the electrical or thermal energy-supply systems must not interfere with the environment beyond the specified limits.

2.2.3. Technical compatibility

The electricity/thermal energy supply systems used must:

↓ 96/48/EC and 2001/16/EC

– enable trains to achieve the specified performance levels;

↓ 96/48/EC

– ~~be compatible with the collection devices fitted to the trains.~~

↓ 2001/16/EC

– in the case of electricity energy supply systems, be compatible with the collection devices fitted to the trains.

↓ 2001/16/EC

2.3. Control and command and signalling

2.3.1. Safety

The control and command and signalling installations and procedures used must enable trains to travel with a level of safety which corresponds to the objectives set for the network. The

control and command and signalling systems should continue to provide for safe passage of trains permitted to run under degraded conditions.

2.3.2. Technical compatibility

All new infrastructure and all new rolling stock manufactured or developed after adoption of compatible control and command and signalling systems must be tailored to use of those systems.

The control and command and signalling equipment installed in the train drivers' cabs must permit normal operation, under the specified conditions, throughout the ~~trans-European conventional~~ rail system.

↓ 96/48/EC and 2001/16/EC

2.4. Rolling stock

2.4.1. Safety

The rolling-stock structures and those of the links between vehicles must be designed in such a way as to protect the passenger and driving compartments in the event of collision or derailment.

The electrical equipment must not impair the safety and functioning of the control and command and signalling installations.

The braking techniques and the stresses exerted must be compatible with the design of the tracks, engineering structures and signalling systems.

Steps must be taken to prevent access to electrically-live constituents in order not to endanger the safety of persons.

In the event of danger devices must enable passengers to inform the driver and accompanying staff to contact him.

The access doors must incorporate an opening and closing system which guarantees passenger safety.

Emergency exits must be provided and indicated.

Appropriate provisions must be laid down to take account of the particular safety conditions in very long tunnels.

An emergency lighting system having a sufficient intensity and duration is an absolute requirement on board trains.

Trains must be equipped with a public address system which provides a means of communication to the public from on-board staff and ground control.

2.4.2. Reliability and availability

The design of the vital equipment and the running, traction and braking equipment and also the control and command system must, in a specific degraded situation, be such as to enable the train to continue without adverse consequences for the equipment remaining in service.

2.4.3. Technical compatibility

The electrical equipment must be compatible with the operation of the control and command and signalling installations.

↓ 2001/16/EC

In the case of electric traction, the characteristics of the current-collection devices must be such as to enable trains to travel under the energy-supply systems for the ~~trans-European conventional~~ rail system.

↓ 96/48/EC and 2001/16/EC

The characteristics of the rolling stock must be such as to allow it to travel on any line on which it is expected to operate.

↓ 2004/50/EC Art. 1(21) and Art. 2(19)

2.4.4. Controls

Trains must be equipped with a recording device. The data collected by this device and the processing of the information must be harmonised.

↓ 2001/16/EC

2.5. Maintenance

2.5.1. Health and safety

The technical installations and the procedures used in the centres must ensure the safe operation of the subsystem and not constitute a danger to health and safety.

↓ 96/48/EC and 2001/16/EC

2.5.2. Environmental protection

The technical installations and the procedures used in the maintenance centres must not exceed the permissible levels of nuisance with regard to the surrounding environment.

2.5.3. Technical compatibility

↓ 2001/16/EC

The maintenance installations for conventional rolling stock must be such as to enable safety, health and comfort operations to be carried out on all stock for which they have been designed.

↓ 96/48/EC (adapted)

~~2.6. Environment~~

~~2.6.1. Health~~

~~Operation of the trans-European high-speed rail system must remain within the statutory noise nuisance limits.~~

~~2.6.2. Environmental protection~~

~~Operation of the trans-European high-speed rail system must not cause a level of ground vibrations which is unacceptable for activities and the immediate environment in the vicinity of the infrastructure and in a normal state of maintenance.~~

2.7. Operation

↓ 2001/16/EC

2.6. Operation and traffic management

2.6.1. Safety

↓ 96/48/EC

~~Alignment of the network operating rules and the qualifications of drivers and on-board staff must be such as to ensure safe international operation.~~

↓ 2001/16/EC

Alignment of the network operating rules and the qualifications of drivers and on-board staff and of the staff in the control centres must be such as to ensure safe operation, bearing in mind the different requirements of cross-border and domestic services.

The maintenance operations and intervals, the training and qualifications of the maintenance and control centre staff and the quality assurance system set up by the operators concerned in the control and maintenance centres must be such as to ensure a high level of safety.

2.6.2. Reliability and availability

The maintenance operations and periods, the training and qualifications of the maintenance and control centre staff and the quality assurance system set up by the operators concerned in

the control and maintenance centres must be such as to ensure a high level of system reliability and availability.

2.6.3. Technical compatibility

Alignment of the network operating rules and the qualifications of drivers, on-board staff and traffic managers must be such as to ensure operating efficiency on the ~~trans-European conventional~~ rail system, bearing in mind the different requirements of cross-border and domestic services.

2.7. Telematics applications for freight and passengers

2.7.1. Technical compatibility

The essential requirements for telematics applications guarantee a minimum quality of service for passengers and carriers of goods, particularly in terms of technical compatibility.

Steps must be taken to ensure:

- that the databases, software and data communication protocols are developed in a manner allowing maximum data interchange between different applications and operators, excluding confidential commercial data;
- easy access to the information for users.

2.7.2. Reliability and availability

The methods of use, management, updating and maintenance of these databases, software and data communication protocols must guarantee the efficiency of these systems and the quality of the service.

2.7.3. Health

The interfaces between these systems and users must comply with the minimum rules on ergonomics and health protection.

2.7.4. Safety

Suitable levels of integrity and dependability must be provided for the storage or transmission of safety-related information.

ANNEX IV

CONFORMITY AND SUITABILITY FOR USE OF INTEROPERABILITY CONSTITUENTS

↓ 96/48/EC (adapted)

~~EC DECLARATION~~

- ~~of conformity~~
 - ~~of suitability for use~~
-

↓ 2001/16/EC (adapted)

1. INTEROPERABILITY CONSTITUENTS

The «EC» declaration applies to the interoperability constituents involved in the interoperability of the ~~trans-European conventional~~ rail system, as referred to in Article 3. These interoperability constituents may be:

↓ 96/48/EC and 2001/16/EC

1.1. Multiple-use constituents

These are constituents that are not specific to the railway system and which may be used as such in other areas.

1.2. Multiple-use constituents having specific characteristics

These are constituents which are not, as such, specific to the railway system, but which must display specific performance levels when used for railway purposes.

1.3. Specific constituents

These are constituents that are specific to railway applications.

2. SCOPE

The «EC» declaration covers:

- either the assessment by a notified body or bodies of the intrinsic conformity of an interoperability constituent, considered in isolation, to the technical specifications to be met;
- or the assessment/judgement by a notified body or bodies of the suitability for use of an interoperability constituent, considered within its railway environment and, in

particular in cases where the interfaces are involved, in relation to the technical specifications, particularly those of a functional nature, which are to be checked.

The assessment procedures implemented by the notified bodies at the design and production stages will draw upon the modules defined in Decision 93/465/EEC, in accordance with the conditions referred to in the TSIs.

3. CONTENTS OF THE «EC» DECLARATION

The «EC» declaration of conformity or of suitability for use and the accompanying documents must be dated and signed.

That declaration must be written in the same language as the instructions and must contain the following:

- the Directive references;
- name and address of the manufacturer or its authorized representative established within the Community (give trade name and full address; in the case of the authorised representative, also give the trade name of the manufacturer or constructor);
- description of interoperability constituent (make, type, etc.);
- description of the procedure followed in order to declare conformity or suitability for use (Article 13);
- all the relevant descriptions met by the interoperability constituent and, in particular, its conditions of use;
- name and address of the notified body or bodies involved in the procedure followed in respect of conformity or suitability for use and date of examination certificate together with, where appropriate, the duration and conditions of validity of the certificate;
- where appropriate, reference to the European specifications;
- identification of the signatory empowered to enter into commitments on behalf of the manufacturer or of the manufacturer's authorised representative established within the Community.

↓ 2001/16/EC

ANNEX V

DECLARATION OF VERIFICATION OF SUBSYSTEMS

↓ 96/48/EC and 2001/16/EC ⇒ new

The «EC» declaration of verification and the accompanying documents must be dated and signed.

That declaration must be written in the same language as the technical file and must contain the following:

- the Directive references;
- name and address of the contracting entity ⇒ or the constructor ⇐, or its authorized representative established within the Community (give trade name and full address; in the case of the authorised representative, also give the trade name of the contracting entity ⇒ or the constructor ⇐);
- a brief description of the subsystem;
- name and address of the notified body which conducted the «EC» verification referred to in Article 18;
- the references of the documents contained in the technical file;
- all the relevant temporary or definitive provisions to be complied with by the subsystems and in particular, where appropriate, any operating restrictions or conditions;
- if temporary: duration of validity of the «EC» declaration;
- identity of the signatory.

ANNEX VI

VERIFICATION PROCEDURE FOR SUBSYSTEMS

1. INTRODUCTION

«EC» verification is the procedure whereby a notified body checks and certifies, at the request of the contracting entity or ⇒ the constructor or their ⇐ authorised representative established within the Community, that a subsystem:

- complies with the Directive;
 - complies with the other regulations deriving from the Treaty,
- and may be put into operation.

2. STAGES

The subsystem is checked at each of the following stages:

- overall design;
- construction of subsystem, including, in particular, civil-engineering activities, constituent assembly, overall adjustment;
- final testing of the subsystem.

3. CERTIFICATE

The notified body responsible for «EC» verification draws up the certificate of conformity intended for the contracting entity or ⇒ the constructor or their ⇐ authorised representative established within the Community, which in turn draws up the «EC» declaration of verification intended for the supervisory authority in the Member State in which the subsystem is located and/or operates.

4. TECHNICAL FILE

The technical file accompanying the declaration of verification must be made up as follows:

- for infrastructure: engineering-structure plans, approval records for excavations and reinforcement, testing and inspection reports on concrete;

- for the other subsystems: general and detailed drawings in line with execution, electrical and hydraulic diagrams, control-circuit diagrams, description of data-processing and automatic systems, operating and maintenance manuals, etc.;
- list of interoperability constituents, as referred to in Article 3, incorporated into the subsystem;
- copies of the «EC» declarations of conformity or suitability for use with which the abovementioned constituents must be provided in accordance with Article 13 of the Directive accompanied, where appropriate, by the corresponding calculation notes and a copy of the records of the tests and examinations carried out by the notified bodies on the basis of the common technical specifications;
- certificate from the notified body responsible for «EC» verification, accompanied by corresponding calculation notes and countersigned by itself, stating that the project complies with this Directive and mentioning any reservations recorded during performance of the activities and not withdrawn; the certificate should also be accompanied by the inspection and audit reports drawn up by the same body in connection with its task, as specified in sections 5.3 and 5.4.

5. MONITORING

5.1. The aim of «EC» monitoring is to ensure that the obligations deriving from the technical file have been met during production of the subsystem.

5.2. The notified body responsible for checking production must have permanent access to building sites, production workshops, storage areas and, where appropriate, prefabrication or testing facilities and, more generally, to all premises which it considers necessary for its task. The contracting entity or ⇒ the constructor or their ⇐ authorised representative within the Community must send it or have sent to it all the documents needed for that purpose and, in particular, the implementation plans and technical documentation concerning the subsystem.

5.3. The notified body responsible for checking implementation must periodically carry out audits in order to confirm compliance with the Directive. It must provide those responsible for implementation with an audit report. It may require to be present at certain stages of the building operations.

5.4. In addition, the notified body may pay unexpected visits to the worksite or to the production workshops. At the time of such visits the notified body may conduct complete or partial audits. It must provide those responsible for implementation with an inspection report and, if appropriate, an audit report.

6. SUBMISSION

The complete file referred to in paragraph 4 must be lodged with the contracting entity or ⇒ the constructor or their ⇐ authorised representative established within the Community in support of the certificate of conformity issued by the notified body responsible for verification of the subsystem in working order. The file must be attached to the «EC» declaration of verification which the contracting entity ⇒ or the constructor ⇐ sends to the supervisory authority in the Member State concerned.

A copy of the file must be kept by the contracting entity throughout the service life of the subsystem. It must be sent to any other Member States which so request.

7. PUBLICATION

Each notified body must periodically publish relevant information concerning:

- requests for «EC» verification received;
- certificates of conformity issued;
- certificates of conformity refused.

8. LANGUAGE

The files and correspondence relating to the «EC» verification procedures must be written in an official language of the Member State in which the contracting entity or \Rightarrow the constructor or their \Leftarrow authorised representative within the Community is established or in a language accepted by the entity.

ANNEX VII

MINIMUM CRITERIA WHICH MUST BE TAKEN INTO ACCOUNT BY THE MEMBER STATES WHEN NOTIFYING BODIES

1. The body, its Director and the staff responsible for carrying out the checking operations may not become involved either directly or as authorized representatives in the design, manufacture, construction, marketing or maintenance of the interoperability constituents or subsystems or in their use. This does not exclude the possibility of an exchange of technical information between the manufacturer or constructor and that body.

2. The body and the staff responsible for the checks must carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect their judgement or the results of their inspection, in particular from persons or groups of persons affected by the results of the checks.

↓ 2004/50/EC Art. 1(22) and Art. 2(20)

In particular, the body and the staff responsible for the checks must be functionally independent of the authorities designated to issue authorisations for placing in service in the framework of this Directive, licences in the framework of Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings³⁰ and safety certificates in the framework of Directive 200./49/EC, and of the bodies in charge of investigations in the event of accidents.

↓ 2001/16/EC

3. The body must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the checks; it should also have access to the equipment needed for exceptional checks.

4. The staff responsible for the checks must possess:

- proper technical and vocational training;
- a satisfactory knowledge of the requirements relating to the checks that they carry out and sufficient practice in those checks;
- the ability to draw up the certificates, records and reports which constitute the formal record of the inspections conducted.

5. The independence of the staff responsible for inspections must be guaranteed. No official must be remunerated either on the basis of the number of inspections performed or of the results of those inspections.

³⁰ OJ L 143, 27.6.1995, p. 70. Directive as amended by Directive 2001/13/EC of the European Parliament and of the Council (OJ L 75, 15.3.2001, p. 26).

6. The body must take out civil liability insurance unless that liability is covered by the State under national law or unless the checks are carried out directly by that Member State.

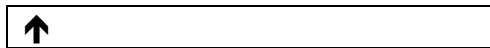
7. The staff of the body are bound by professional secrecy with regard to everything they learn in the performance of their duties (with the exception of the competent administrative authorities in the State where they perform those activities) in pursuance of this Directive or any provision of national law implementing the Directive.

ANNEX VIII**FILE FOR SUBMITTING A DEROGATION**

When submitting a request for a derogation, Member States must supply the following documents:

- (a) A formal letter communicating the proposed derogation to the Commission
- (b) A file, annexed to the letter, comprising at least:
 - a description of the work, goods and services subject to the derogation, specifying the key dates, the geographical location and the operational and technical area;
 - a precise reference to the TSIs (or their parts) for which a derogation is requested;
 - a precise reference to and details of the alternative provisions which will be applied;
 - for requests made under Article 7(a), justification of the advanced stage of development of the project;
 - justification of the derogation, including the main reasons of a technical, economic, commercial, operational and/or administrative nature;
 - any other information justifying the request for a derogation;
 - a description of the measures that the Member State proposes to take in order to promote the final interoperability of the project. In the case of a minor derogation, this description is not required.

Documentation must be supplied in paper form and as electronic files, so that it can be distributed among the members of the Committee.



ANNEX IX

Part A

Directives repealed together with their amendments
(referred to in Article 29)

Council Directive 96/48/EC

(OJ L 235, 17.9.1996, p. 6)

Directive 2001/16/EC of the European
Parliament and of the Council

(OJ L 110, 20.4.2001, p. 1)

Regulation (EC) No 1882/2003 of the European Parliament and of the Council Only point 60 of Annex III

(OJ L 284, 31.10.2003, p. 1)

Directive 2004/50/EC of the European
Parliament and of the Council

(OJ L 164, 30.4.2004)

Part B

Time limits for transposition into national law(referred to in Article 29)

Directive	Deadline for transposition
96/48/EC	8 June 1999
2001/16/EC	20 April 2003
2004/50/EC	30 April 2006

ANNEX X

CORRELATION TABLE

Directive 96/48/EC	Directive 2001/16/EC	This Directive
Article 1(1)	Article 1(1)	Article 1(1)
Article 1(2)	Article 1(2)	Article 1(2)
-	Article 1(3)	Article 1(3)
Article 2, introductory words	Article 2, introductory words	Article 2, introductory words
Article 2(a) to (l)	Article 2(a) to (l)	Article 2(a) to (l)
Article 2(n)	Article 2(m)	Article 2(m)
Article 2(o)	Article 2(n)	Article 2(n)
Article 2(m)	Article 2(o)	Article 2(o)
Article 2(p)	Article 2(p)	Article 2(p)
-	-	Article 2(q), (r) and (s)
Articles 3, 4 and 5	Articles 3, 4 and 5	Articles 3, 4 and 5
Article 6(1) to (8)	Article 6(1) to (8)	Article 6(1) to (8)
-	-	Article 6(9)
Articles 7 to 9	Articles 7 to 9	Articles 7 to 9
Article 10(1) to (3)	Article 10(1) to (3)	Article 10(1) to (3)
-	Article 10(6)	Article 10(4)
-	-	Article 10(5)
Articles 11 to 13	Articles 11 to 13	Articles 11 to 13
Article 14(1) to (5)	Article 14(1) to (5)	Article 14(1) to (5)
-	-	Article 14(6) to (9)
Articles 15 and 16	Articles 15 and 16	Articles 15 and 16
Article 17	Article 17	Article 17(1) and (2)
-	-	Article 17(3)

Article 18(1) to (3)	Article 18(1) to (3)	Article 18(1) to (3)
-	-	Article 18(4) and (5)
Articles 19 and 20	Articles 19 and 20	Articles 19 and 20
Article 21(1) to (4)	Article 21(1) to (4)	Article 21(1) to (4)
Article 21a(1)	Article 22	Article 22
Article 21a(2)	Article 21a	Article 21(5)
Article 21b	-	-
Article 21c	Article 21b	Article 21(6)
Article 22	Article 26	Article 26
Article 22a	Article 24	Article 24(1) and (2)
-	-	Article 24(3)
-	Article 23	Article 23
-	Article 25	Article 25
Article 23	Article 27	Article 27
Article 24	Article 28	Article 28
Article 25	Article 29	Article 29
Article 26	Article 30	Article 30
Annexes I to VII	Annexes I to VII	Annexes I to VII
-	-	Annexes VIII to X