

Commission Decision of 5 December 2008 extending the derogations from certain provisions of Council Directive 91/440/EEC and Directive 2001/14/EC of the European Parliament and of the Council granted to Ireland and the United Kingdom in respect of Northern Ireland (notified under document number C(2008) 7703) (Only the English text is authentic) (2008/981/EC)

COMMISSION DECISION

of 5 December 2008

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(notified under document number C(2008) 7703)

(Only the English text is authentic)

(2008/981/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways⁽¹⁾, and in particular Article 14a(3) thereof, as well as to 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 certification⁽²⁾, and in particular Article 33(3) thereof,

Whereas:

- (1) According to Article 14a of Directive 91/440/EEC and to Article 33 of Directive 2001/14/EC, Ireland and the United Kingdom in respect of Northern Ireland benefit, due to their specific geographical situation, of derogations from implementing certain provisions of these Directives such as the requirements to entrust to an independent body the functions of determining equitable and non-discriminatory access to infrastructure, to set up an independent regulatory body, provisions related to capacity rights, framework agreements and measures in case of saturation of the rail network as well as other provisions. These derogations expired on 14 March 2008.
- (2) Ireland requested an extension of the derogations for a further five years on 13 March 2007 and the United Kingdom made the same request on 14 March 2007.
- (3) Based on evidence provided from the concerned Member States the Commission concluded that the specific geographical situation of Ireland and Northern Ireland and, at this stage, the lack of development prospects for rail freight services and international rail passenger services would justify extending the derogations by another five years. In the coming years, the potential cost of complying with the requirements of the

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Directives covered by the derogations would outweigh the potential benefits of a full implementation of the regulatory framework for a Community-wide market for rail transport services.

- (4) Several requests by the Commission for further substantiation of the requests and delays in their provision have led to a delay in the establishment of this Decision. The Decision extending the derogations granted to Ireland and the United Kingdom, in respect of Northern Ireland, should take retroactive effect from 15 March 2008.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Developing European Railways Committee, set up by Article 11a of Directive 91/440/EEC and by Article 35 of Directive 2001/14/EC,

HAS ADOPTED THIS DECISION:

Article 1

The derogation granted to Ireland and the United Kingdom, in respect of Northern Ireland, referred to in Article 14a(1) of Directive 91/440/EEC is extended until 14 March 2013.

Article 2

The derogation granted to Ireland and the United Kingdom, in respect of Northern Ireland, referred to in Article 33(1) of Directive 2001/14/EC is extended until 14 March 2013.

Article 3

This Decision shall apply from 15 March 2008.

Article 4

This Decision is addressed to Ireland and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 5 December 2008.

For the Commission

Antonio TAJANI

Vice-President

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- (1) OJ L 237, 24.8.1991, p. 25.
- (2) OJ L 75, 15.3.2001, p. 29.

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