

Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (repealed)

CHAPTER IV

SAFETY AUTHORITY

Article 16

Tasks

- 1 Each Member State shall establish a safety authority. This authority may be the Ministry responsible for transport matters and shall be independent in its organisation, legal structure and decision making from any railway undertaking, infrastructure manager, applicant and procurement entity.
- 2 The safety authority shall be entrusted with at least the following tasks:
 - a authorising the bringing into service of the structural subsystems constituting the trans-European high-speed rail system in accordance with Article 14 of Directive 96/48/EC and checking that they are operated and maintained in accordance with the relevant essential requirements;
 - b authorising the bringing into service of the structural subsystems constituting the trans-European conventional rail system, in accordance with Article 14 of Directive 2001/16/EC and checking that they are operated and maintained in accordance with the relevant essential requirements;
 - c supervising that the interoperability constituents are in compliance with the essential requirements as required by Article 12 of Directives 96/48/EC and 2001/16/EC;
 - d authorising the placing in service of new and substantially altered rolling stock that is not yet covered by a TSI;
 - e the issue, renewal, amendments and revocation of relevant parts of safety certificates and of safety authorisations granted in accordance with Articles 10 and 11 and checking that conditions and requirements laid down in them are met and that infrastructure managers and railway undertakings are operating under the requirements of Community or national law;
 - f monitoring, promoting, and, where appropriate, enforcing and developing the safety regulatory framework including the system of national safety rules;
 - g supervising that rolling stock is duly registered and that safety-related information in the national register, established in accordance with Article 14 of Directive 96/48/EC and of Directive 2001/16/EC, is accurate and kept up-to-date;
- 3 The tasks referred to in paragraph 2 may not be transferred or subcontracted to any infrastructure manager, railway undertaking or procurement entity.

Article 17

Decision-making principles

1 The safety authority shall carry out its tasks in an open, non-discriminatory and transparent way. In particular it shall allow all parties to be heard and give reasons for its decisions.

It shall promptly respond to requests and applications and communicate its requests for information without delay and adopt all its decisions within four months after all requested information has been provided. It may at any time request the technical assistance of infrastructure managers and railway undertakings or other qualified bodies when it is carrying out the tasks referred to in Article 16.

In the process of developing the national regulatory framework, the safety authority shall consult all persons involved and interested parties, including infrastructure managers, railway undertakings, manufacturers and maintenance providers, users and staff representatives.

2 The safety authority shall be free to carry out all inspections and investigations that are needed for accomplishment of its tasks and it shall be granted access to all relevant documents and to premises, installations and equipment of infrastructure managers and railway undertakings.

3 Member States shall take the measures necessary to ensure that decisions taken by the safety authority are subject to judicial review.

4 The safety authorities shall conduct an active exchange of views and experience for the purpose of harmonising their decision-making criteria across the Community. Their cooperation shall in particular aim at facilitating and coordinating the safety certification of railway undertakings which have been granted international train paths in accordance with the procedure laid down in Article 15 of Directive 2001/14/EC.

The Agency shall support the safety authorities in these tasks.

Article 18

Annual report

Each year the safety authority shall publish an annual report concerning its activities in the preceding year and send it to the Agency by 30 September at the latest. The report shall contain information on:

- (a) the development of railway safety, including an aggregation at Member State level of the CSIs laid down in Annex I;
- (b) important changes in legislation and regulation concerning railway safety;
- (c) the development of safety certification and safety authorisation;
- (d) results of and experience relating to the supervision of infrastructure managers and railway undertakings.